

MINUTES OF FEBRUARY 3, 2003

The regular meeting of the Sussex County Board of Adjustment was held Monday evening February 3, 2003, 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. Mills, Mr. Workman 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. Mills, and carried unanimously to approve the Revised Agenda. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of January 27, 2003. 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. 8084 – Bayside Builders – west of Road 273, east corner of Stable Court, being Lot 24, within Stable Farm Subdivision.

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

See Case No. 8086 for details.

Case No. 8085 – Bayside Builders – west of Road 273, south of Saddle Court, being Lot 7, within Stable Farm Subdivision.

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

See Case No. 8086 for details.

Case No. 8086 – Bayside Builders – west of Road 273, east of Stable Court, being Lot 23, within Stable Farm Subdivision.

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

Motion by Mr. McCabe, seconded by Mr. Hudson, and carried unanimously to hear Case No. 8084, Case No. 8085, and Case No. 8086 at one time. Vote carried 5 – 0.

Mr. Oates presented the cases. F. Douglass Warner was sworn in with James Fuqua, Attorney, on behalf of the applications, requesting a 3.83-foot variance from the required 40-foot front yard setback requirement for a dwelling and a 14.27-foot variance from the required 40-foot front yard setback requirement for a screen porch and deck on

Lot 24, a 17.34-foot variance from the required 40-foot front yard setback requirement for a screen porch on Lot 7, and a 20.77-foot variance from the required 40-foot front yard setback requirement for a screen porch on Lot 23; that the lots are vacant; that the lots will have no access from the County road; that the cul-de-sac also creates a hardship to meet the greater setback created by the through lot; that the dwellings will meet all other required setbacks; that there will be no visual impairment; and that they submitted a letter from the Department of Transportation in favor of the application.

Mr. Berl questioned as to whether the subdivision could have been created differently to allow for the greater setback requirement.

In rebuttal, Jim Fuqua stated that yes the subdivision could have been created differently, however Bayside Builders has already purchased the lots.

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 cases be **tabled until February 24, 2003**. Vote carried 5 – 0.

Case No. 8087 – Toll Brothers – east of Road 357, west of May Drive, being Lot 53, within Bethany Lakes Subdivision.

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

See Case No. 8091 for details.

Case No. 8088 – Toll Brothers – east of Road 357, west of May Drive, being Lot 52, within Bethany Lakes Subdivision.

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

See Case No. 8091 for details.

Case No. 8089 – Toll Brothers – east of Road 357, west of May Drive, being Lot 54, within Bethany Lakes Subdivision.

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

See Case No. 8091 for details.

Case No. 8090 – Toll Brothers – east of Road 357, west of May Drive, being Lot 55, within Bethany Lakes Subdivision.

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

See Case No. 8091 for details.

Case No. 8091 – Toll Brothers – east of Road 357, west corner of May Drive and Virginia Drive, being Lot 51, within Bethany Lakes Subdivision.

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

Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously to hear Case No. 8087, Case No. 8088, Case No. 8089, Case No. 8090, and Case No. 8091 all at once.

Mr. Oates presented the cases. Raymond Nigh and F. Douglass Warner were sworn in with Jim Fuqua, Attorney, on behalf of the application requesting a 14-foot variance from the required 40-foot front yard setback requirement for Lot 53, a 10-foot variance from the required 40-foot front yard setback requirement for Lot 52, a 14-foot variance from the required 40-foot front yard setback requirement for Lot 54, a 14-foot variance from the required 40-foot front yard setback requirement for Lot 55, and a 12-foot variance from the required 40-foot front yard setback requirement for Lot 51; that there will be no access to the lots from the County road; that the dwellings will meet all other required setbacks; that to build dwellings consistent with the other dwellings in the subdivision the variances are needed; that a buffer of land exists already to allow more land to be dedicated to the Department of Highways; that the dwellings will not impair vision from the road; and that they submitted a letter from the Department of Highway in favor of the application.

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. McCabe, and carried unanimously that the cases be **tabled until February 24, 2003**. Vote carried. 5 – 0.

Case No. 8092 – Tim Tenerovich – north of Route 24, east of Sunset Lane, being Unit 2, within Love Creek Cottages.

A variance from the front yard and rear yard setback requirements.

Mr. Oates presented the case. Tim Tenerovich was sworn in and testified requesting a 8-foot variance from the required 20-foot rear yard setback requirement and a 6-foot variance from the required 30-foot front yard setback requirement for a dwelling; that he purchased the property in November 2002; that due to severe termite damage the dwelling is beyond just minor repairs; that he wants to raise the dwelling and build within the same footprint; that 1/3 of the dwelling will remain under the proposed dwelling and be used for storage; that the existing dwelling measures 27'6"x 22'6" and the proposed dwelling will measure 24' x 28'; that he has approval from the Condominium Association; and that the existing dwelling was built in 1950.

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

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

Case No. 8093 – Donald and Rebecca Martz – north of Road 270-A, 200 feet east of Road 270.

A variance from the side yard setback requirement.

Mr. Oates presented the case. Donald Martz was sworn in and testified requesting a 9-foot variance from the required 10-foot side yard setback requirement for a proposed detached garage; that the proposed garage will measure 32' x 32'; that he would like to place the garage in line with the existing driveway; and that his neighbor is in favor of the application.

By a show of hands, 1 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. Workman, and carried unanimously that the variance be **granted**. Vote carried 5 – 0.

Case No. 8094 – Larry Richardson – east of Road 504, 325 feet south of Road 503, being Lot 7, within lands of Jumarally and Vandeyar.

A special use exception from the provisions and requirements for a private garage in a residential district.

Mr. Oates presented the case. Larry Richardson was sworn in and testified requesting a special use exception for a 1440-square-foot garage for more than four (4)

cars in a residential district; that the builder obtained the building permit; that he received a letter from the Planning and Zoning Department stating that the garage was in violation; and that the cars and garage are strictly for personal use only.

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 special use exception be **granted with the stipulation of no use for business**.
Vote carried 5 – 0.

Case No. 8095 – David Allen Mitchell – south side of intersection of Road 431 and Road 341-A.

A special use exception to connect two (2) manufactured homes to make one (1) unit.

Mr. Oates presented the case. David Allen Mitchell was sworn in requesting a special use exception to connect two (2) manufactured homes to make one (1) unit; that the existing unit is a 1965 Schulz and measures 10' x 50'; that the proposed unit is a 1988 Oakwood and will measure 14' x 56'; that it will have only one kitchen; and that it will have an A-Roof, block foundation and vinyl siding.

By a show of hands, 1 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 special use exception be **granted with the following stipulations:**

1. **The manufactured home shall be enclosed with a block foundation.**
2. **An A-roof shall be installed.**
3. **There shall only be one (1) kitchen.**
4. **The units shall be improved with matching siding.**
5. **The improvement shall be completed within one (1) year.**

Vote carried 5 – 0.

Case No. 8096 – Dr. and Mrs. Robert C. Deckmann – south of Road 88, east of Cowpet and Heronwood Drive, being Lot 7, within Cowpet Bay Estates and Heronwood Subdivision.

A variance from the maximum height requirement for a structure.

Mr. Oates presented the case. Laura Deckmann was sworn in and testified requesting a 5-foot variance from the required 42-foot maximum height requirement for a proposed dwelling; that the proposed dwelling is designed to reflect a specific time period of a French Chateau; that the design creates a very high steeped roof; that from the landscaping to the interior of the proposed dwelling will reflect the time period; that the proposed dwelling actually calls for a pitch that would reach a height of 52-foot; that they have altered the plan to have the pitch reach 48-foot to keep in line with other dwellings in the subdivision; that they have moved an existing dwelling from this lot; and that they have the Association's approval of the proposed plan.

Ferris Webster and Denise Martin were sworn in and testified in opposition to the application; that they live across the pond; that they are concerned with how this dwelling will compare to the surrounding dwellings due to its size; that they are concerned with how many more trees will be removed; that it will affect their property value; and that they submitted pictures.

In rebuttal, Laura Deckmann, stated that the dwelling will be 100-foot from the pond; that when they purchased the first dwelling on this property is when they removed trees to gain better a better view of the pond; and that the proposed landscaping will also include some new trees to be planted.

By a show of hands, 2 parties appeared in opposition to the application.

Motion by Mr. Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the case be taken under advisement. Vote carried 5 – 0.

At the conclusion of the hearings, the Chairman referred back to this case. Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variance be **granted**. Vote carried 5 – 0.

OLD BUSINESS

Case No. 8069 – Backbay Liquor Warehouse – intersection of Route 24 and Road 299, being Lot 2, within Backbay Shopping Center.

A variance for an additional wall sign.

The Board discussed the case.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be **tabled until February 24, 2003**. Vote carried 5 – 0.

Case No. 8083 – Randall M. and Sheryl B. Rothstein – east of Route One, north of Alicia Court, being Lot 41, within Breakwater Beach Subdivision.

A variance from the rear yard setback requirement and a variance from the walkway requirement for a swimming pool.

The Board discussed the case.

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

Meeting Adjourned 8:35 p.m.