

MINUTES OF MARCH 3, 2003

The regular meeting of the Sussex County Board of Adjustment was held Monday evening March 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. Mills, seconded by Mr. Hudson, 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 February 24, 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. 8113 – John Rodgers – east of Road 39B, east of Shore Drive, being Lot 18, within Joseph D. Short Subdivision.

A variance from the side yard setback requirement.

No one appeared on behalf of the application.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the case be **denied for lack of a record of support**. Vote carried 5 – 0.

Case No. 8114 – David H. Vineberg – west of Road 285, east of Walls Street, being Lot 49, within Falcon Crest Subdivision.

A variance from the front yard setback requirement.

Mr. Oates presented the case. David H. Vineberg was sworn in and testified requesting a 4-foot variance from the required 30-foot front yard setback requirement for an enclosed porch; that the porch will measure 8'x19'; and that the builder advised him to apply for the variance.

Maria Swaringen was sworn in and testified in opposition to the application; that she feels the approval of this variance will set a precedent; that the Association has not approved the application; and that only one other house in the Community is closer than the 30-foot.

David B. Flannigan was sworn in and testified in opposition to the application; that he is the Applicant's neighbor; and that if the variance is granted the porch will distract from the character of the Community.

By a show of hands, 6 parties appeared in opposition to the application.

Mr. Oates stated that the office received 2 letters in opposition to the application

Mr. Mills, stated that the Board is not responsible to uphold the laws of the covenants.

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

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

Case No. 8115 – Duane C. Taylor – east of Route 24, northeast of Sloan Road (Route 49), being Lot 4, within Burton Hall Estates Subdivision.

A variance from the side yard setback requirement for an accessory structure.

Mr. Oates presented the case. Duane C. Taylor was sworn in and testified requesting a 4-foot variance from the required 5-foot side yard setback requirement for a proposed shed; that a deed restriction line and the desired location for the shed prevents him from meeting the required setbacks; that the lot is adjacent to Arnell Creek; that the deed restriction was set to preserve the view; and that the neighbor 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. Mills, and carried unanimously that the variance be **granted**. Vote carried 5 – 0.

Case No. 8116 – Rachel Lynch – south of Road 381A, 2,500 feet east of Road 382.

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

Mr. Oates presented the case. Rachel Lynch was sworn in and testified requesting a special use exception to retain a manufactured home on a medical hardship basis; that her son has been deaf since birth; that a special use exception has been granted in the past; that she misunderstood the process in order to have it granted before the approval expired; and that she does not know why a letter from the doctor is necessary due to the fact that her son's condition will never improve.

Cindy Lynch was sworn in and testified in favor of the application; that both her parents are deaf; and that she also wanted to know if there was a way to have this approved without having to appear in person.

Mr. Berl explained that the ordinance has been changed to allow a letter from the doctor to be accepted before the approval expires to eliminate the need for a hearing each time.

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. Hudson, and carried unanimously that the special use exception be **granted for a period 2 years**. Vote carried 5 – 0.

Case No. 8117 – Iacchetta Development Corp. – south of Route 54, north of North Breakwater Run, being Lot 145, within Keenwick Sound Phase II.

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

Mr. Oates presented the case. Dino Iacchetta and Charles Adams were sworn in with Ray Tomasetti, Attorney, on behalf of the application, requesting a 25.3-foot variance from the required 40-foot front yard setback requirement for a through lot; that the building permit was obtained in December 2002; that the wrong setbacks were given on the application; that the Applicant was not aware of the error until after the footers were poured and another contractor brought it to his attention; that the Applicant also called in to the Planning & Zoning office and received the wrong setbacks for the lot; that all building has been stopped until after the hearing; that the Architectural Board approved the application; and that they submitted pictures and copies of the building permit.

Paul Fowler, was sworn in and testified in opposition to the application; that he is a member of the Homeowner's Association; that the Board is opposed to any variance request; that the variance will alter the character of the Community; that the size of the lot

allows the home to be built within the required setbacks; and that the only variances approved in the development before were for decks and small sheds.

In rebuttal, Ray Tomasetti, stated that variances have been granted on the adjacent lots.

In rebuttal, Paul Fowler, stated that the variances were for decks and small sheds only.

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

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be taken under advisement. Vote carried 5 – 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 the variance be **granted in view of the fact that the County created the error and other variances have been granted in the Subdivision**. Vote carried 5 – 0.

Case No. 8118 – Dallas Reynolds – north of Church Street, southeast of Eleanor Lee Lane, being Lot 2, Block A. within Canal Corkran.

A variance from the front yard setback requirement.

Mr. Oates presented the case. Dallas Reynolds and Robert Siegler were sworn in and testified requesting a 3-foot variance from the required 30-foot front yard setback requirement for a second-level deck; that a foundation survey is always done prior to building; that the foundation survey does not show cantilever decks and they were not taken into consideration; and that the mistake was not picked up until the building was complete.

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

Motion by Mr. McCabe, seconded by Mr. Workman, and carried unanimously that the variances for Case No. 8118 and Case No. 8119 be **granted**. Vote carried 5 – 0.

Case No. 8119 – Dallas Reynolds – north of Church Street, southeast of Eleanor Lee Lane, being Lot 1, Block A, within Canal Corkran.

A variance from the front yard setback requirement.

See Case No. 8118 for details.

Case No. 8020 – Lockwood Design & Cont. – south of Route One, west of Road 283, within Summerlyn Development.

A variance from the side yard setback requirement for a sign and a variance from the maximum height requirement for a fence.

Mr. Oates presented the case. Jack Stanton was sworn in and testified requesting a 6.5-foot variance from the required 3.5-foot height requirement for a fence; that the entrance fence will have a 28-square-foot sign on it with a waterfall; that the adjacent sign will not be blocked by the entrance proposed in the application; and that the entrance will not hinder vision from the road.

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. 8121 – John C. Painter – west of U.S. Route 13, west of Marjorie Road, being Lots 2 and 4, Block D, within The Island Development.

A variance from the side yard setback requirement for an accessory structure.

Mr. Oates presented the case. John C. Painter was sworn in and testified requesting a 0.2-foot variance from the required 5-foot side yard setback requirement for an existing 18'x 12' shed; that he has sold the property; that a survey was done for settlement and the encroachment was discovered; that the shed has been on the lot for 17-years; and that to move the shed now would damage the structure.

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 5 – 0.

OLD BUSINESS

Case No. 8104 – Ellwood and Eileen Frey – north of Route 22, southeast of private street, being Unit 69, within Long Neck Village Condo.

A variance from the rear yard setback requirement for an accessory structure.

The Board discussed the case.

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

Meeting Adjourned 8:14 p.m.