

MINUTES OF MARCH 17, 2003

The regular meeting of the Sussex County Board of Adjustment was held Monday evening March 17, 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 and Mr. Hudson, with Mr. Berl – Assistant County Attorney, Mrs. Heffelfinger – Zoning Inspector II, and Mrs. Norwood – Recording Secretary.

Motion by Mr. McCabe, seconded by Mr. Hudson, and carried unanimously to approve the Revised Agenda with the correction to hear 2 items under other business. Vote carried 4 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of March 3, 2003. 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. 8122 – Richard J. Chesshire – east of Road 274, south of Kings Creek Road, being Lot 31, within The Landing Subdivision.

A variance from the side yard setback requirement.

Mrs. Heffelfinger presented the case. Richard Chesshire was sworn in and testified requesting a 4-foot variance from the required 15-foot side yard setback requirement for a proposed garage; that the garage will measure 24'x28'; that he built the existing dwelling 4 years ago; that the garage will line up with the existing driveway; and that the 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. Hudson, and carried unanimously that the variance be **granted**. Vote carried 4 – 0.

Case No. 8123 – David Costello – south of Route 54, west of Van Buren Avenue, being Lot 16, within Edgewater Acres Subdivision.

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

Mrs. Heffelfinger presented the case. David Costello was sworn in and testified requesting a 12-foot variance from the required 30-foot front yard setback requirement, a 5-foot variance from the required 10-foot side yard setback requirement, and a 7-foot

variance from the required 20-foot rear yard setback requirement for a proposed dwelling; that eight out of twelve dwellings on the same street do not meet all the required setbacks; that a second-level deck will encroach on the side yard setback; that he has not received any negative feedback from the Association; and that he submitted pictures and a plan of the proposed dwelling.

Mrs. Heffelfinger stated that the office received 1 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. McCabe, seconded by Mr. Mills, 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 variances be **granted**. Vote carried 4 – 0.

Case No. 8124 – Virginia M. Smith – east of Road 516, 200 feet southeast of Road 525.

A special use exception from the provisions and requirements to place a multisectional manufactured home.

Mrs. Heffelfinger presented the case. David Webb was sworn in and testified requesting a special use exception to place a manufactured home on less than $\frac{3}{4}$ acre parcel; that the unit will be Ms. Smith's permanent residence; that the unit will have a block foundation; that the lot was recorded prior to the ordinance change; that the Board approved a similar variance 2 years ago; and that he 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 case be taken under advisement. Vote carried 4 – 0.

At the conclusion of the hearings, the Chairman referred back to this case. Motion by Mr. McCabe, seconded by Mr. Hudson, and carried unanimously that the case be **tabled until April 7, 2003**. Vote carried 4 – 0.

Case No. 8125 – Wayne A. White – north of Road 275, 600 feet west of Road 239.

A variance from the minimum square footage requirement for a parcel and a variance from the side yard setback requirements.

Mrs. Heffelfinger presented the case. Eric Bodenweiser was sworn in and testified requesting a 5,305-square-foot variance from the required 32,670-square-foot lot size requirement, a 5-foot variance from the required 15-foot side yard setback requirement, and a 5-foot variance from the required 5-foot side yard setback requirement; that the Applicant purchased the property in 1987; that a dog pen is built right on the property line; that there is an existing concrete pad which would create a hardship to remove; that the property is surrounded by woodland and farmland; that the existing manufactured home was placed in 1989 by Kent Homes; that the Applicant was not aware of any violations of the setbacks until a survey was completed; that the cost to move the unit now would create a hardship; that the Applicant wants to subdivide his parcel to give his son who owns the adjacent parcel more room to replace his existing manufactured home; that they want to save as many trees as possible; and that he submitted pictures.

By a show of hands, 6 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 case be taken under advisement. Vote carried ~~5~~⁴ – 0.

At the conclusion of the hearings, the Chairman referred back to this case. Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be **tabled until April 7, 2003**. Vote carried 4 – 0.

Case No. 8126 – Unity Development, L.L.C. – north of Road 275, northeast of Julia Drive, northeast of Lauren Drive, and southeast of Michelle Drive, being lots 19, 26, 27, 41, and 42, within Aydelotte Estates Subdivision.

A variance from the minimum square footage requirement for a parcel.

This case was withdrawn March 3, 2003.

Case No. 8127 – Marian L. Rossi – north of Route 18, 1,350 feet east of Road 249.

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

Mrs. Heffelfinger presented the case. Marian L. Rossi was sworn in and testified requesting a special use exception to place a manufactured home type structure as an office; that the unit is currently on the property; that the unit will be for office use only;

that the business will be for selling mulch, stones, and other landscaping materials; and that the use will be for a period of 5 years or less.

By a show of hands, 3 parties 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 for a period of 5 years**. Vote carried 4 – 0.

Case No. 8128 – Barbara Moulds – south of Route 54, west of Grant Avenue, being Lot 42, within Cape Windsor Subdivision.

A variance from the rear yard setback requirement.

Mrs. Heffelfinger presented the case. Barbara Moulds was sworn in and testified requesting a 5-foot variance from the required 20-foot rear yard setback requirement for a screen porch; that the porch will measure 9'x25'; that the construction has already begun; that she obtained the proper permits; and that the Association is in favor of the application.

By a show of hands, 3 parties 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 variance be **granted**. Vote carried 4 – 0.

Case No. 8129 – Lillian S. Charles – west of Road 288, corner of West Conley Circle and South Conley Circle, being Lot 33, within Conley Chapel Village Subdivision.

A variance from the side yard setback requirement.

Mrs. Heffelfinger presented the case. Sam Charles, Jr. was sworn in and testified requesting a 6.8-foot variance from the required 15-foot side yard setback requirement for an existing garage; that the garage was built 1 ½ years ago; that 2 different surveys show different measurement; and that the Applicant is living in Assisted Living and is selling the property.

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

Case No. 8130 – J. Stickels (Georgetown Auto Sales) – Route One, south of route 9.

A variance for an additional ground sign.

Mrs. Heffelfinger presented the case. David Mosley was sworn in and testified requesting a variance for an additional ground sign; that there are two separate businesses on the same property; that each business has its own building; that each business wants to have its own unique sign; that the sign will be the same size as the existing sign; that one sign for both businesses will have to be much larger and would not blend in with the signs on adjacent properties; and that the sign will meet required setbacks.

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

Case No. 8131 – Joy and Donald Short, Jr. – west of Road 226, 250 feet north of Road 231.

A variance from the side yard setback requirement.

Mrs. Heffelfinger presented the case. Donald Short, Jr. was sworn in and testified requesting a 7-foot variance from the required 15-foot side yard setback requirement for an attached garage and addition; that the garage will line up with the existing driveway; and that his father is his neighbor and he has no objection to 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. Hudson, seconded by Mr. McCabe, and carried unanimously that the variance be **granted**. Vote carried 4 – 0.

Case No. 8132 – Kathleen F. Kissinger – north side of Route 22, south of West Mallard Road, being Lot 29, within Pot Nets Dockside Mobile Home Park.

A variance from the rear yard setback requirement.

Mrs. Heffelfinger presented the case. John Laviola was sworn in and testified requesting a 5-foot variance from the required 10-foot rear yard setback requirement for a manufactured home; that the existing unit measures 60' in length; that the proposed unit measures 14'x66'; that the park recommended the Applicant request a variance; and that he submitted drawings.

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. 8133 – Richard W. Burris, Sr. – south of Route 54, east of Cleveland Avenue, being Lot 3, within Cape Windsor Subdivision.

A variance from the side yard setback requirement.

Mrs. Heffelfinger presented the case. Richard Burris, Sr. was sworn in and testified requesting a 2-foot variance from the required 10-foot side yard setback requirement for an existing covered walkway; that the Association is in opposition of the application; that he did not realize the setbacks would change once a roof was added; and that he obtained the building permit himself.

Helen Stolath was sworn in and testified in opposition to the application; that she is on the Board of Directors for the Association; that safety is an issue with the Association; and that they do want the approval of this variance to start a precedent.

In rebuttal, Richard Burris, Sr., stated that the Association only has an objection to the roof; and that he submitted pictures.

Motion by Mr. McCabe, seconded by Mr. Hudson, and carried unanimously that the case be **tabled unit April 7, 2003**. Vote carried 4 – 0.

Case No. 8134 – Kathleen L. Eastburn – south of Route 22, being Lots 4 and 5, within Massey's Landing Mobile Home Park.

A special use exception to place a modular home in a mobile home park.

Mrs. Heffelfinger presented the case. Tim Willard, Attorney, on behalf of the application testified requesting a special use exception to place a modular home in a mobile home park; that the Applicant has rented the lot since 1978; that the original home was a stick-built cottage; that the unit that has been removed measured 24'x40'; that the

proposed dwelling will measure 28'x48'; that the park owners are in favor of the application; that the proposed dwelling will be a significant improvement to the lot; and that pictures were submitted.

Mr. Berl stated that the application was filed under a section in the ordinance that could allow this type of use to be accepted.

By a show of hands, 5 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 special use exception be **granted**. Vote carried 4 – 0.

Case No. 8135 – Steven Trivits – south of Road 543, 413 feet east of Route 30.

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

No one appeared on behalf of the application.

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

OLD BUSINESS

Case No. 8086 – 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.

The Board received a letter requesting to re-open the case due to the unusual size of the lot.

Mr. Berl stated the request did not meet the requirements of the Board to allow the case to be heard again.

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

Case No. 7811 – Wilmer A. Jenkins – east of Road 531, south of Bradford Street, Lot 2, within Middleford Acres.

A variance from the side yard setback requirement for a corner lot.

The Board received a request for a 1-year extension since the Applicant had to undergo eye surgery and has not been able to complete the granted request.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the request be **granted for a period of one (1) year**. Vote carried 4 – 0.

Meeting Adjourned 8:46 p.m.