

## MINUTES OF APRIL 21, 2003

The regular meeting of the Sussex County Board of Adjustment was held Monday evening April 21, 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. Robertson – Assistant County Attorney, Mr. Oates – Zoning Inspector II, and Mrs. Norwood – Recording Secretary.

Motion by Mr. McCabe, 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 April 7, 2003. Vote carried 5 – 0.

Mr. Robertson read a statement explaining how the Board of Adjustment meeting is conducted and the procedures for hearing the cases.

**Case No. 8151 – David C. Hockenberry** – south of Road 534, southwest of Charles Street, within Charles C. Friedel Subdivision.

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

Mr. Oates presented the case. David Hockenberry was sworn in and testified requesting a 15-foot variance from the required 20-foot rear yard setback requirement and a 10-foot variance from the required 15-foot side yard setback requirement for a proposed detached garage; that the proposed garage will measure 30'x 36'; that to comply with the required setbacks his garage would only be 2-foot from the back door of his dwelling; and that the neighbors are 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 variances be **granted**. Vote carried 5 – 0.

**Case No. 8152 – Eileen McCall** – north of Route One, 2,818 feet southeast of Road 264.

A special use exception to operate a day care facility.

Mr. Oates presented the case. Christin McCall and Eileen McCall were sworn in with John Sergovic, Attorney, on behalf of the application, testified requesting a special use exception to operate a day care facility; that the previous use of the building was a construction office for her father; that the building is 200-feet from the nearest dwelling;

that the hours of operation will be 7:00 a.m. to 5:30 p.m., Monday through Friday; that there will be up to 45 children ages Infant to 12 years old; and that there will be a fenced in area for the playground and ample parking.

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 special use be **granted with the stipulations that the hours of operation be 7:00 a.m. to 5:30 p.m., Monday through Friday, with a maximum of 45 children.**  
Vote carried 5 – 0.

**Case No. 8153 – Keith Properties** – south of Route 54, 510 feet east of Road 58-B.

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

Mr. Oates presented the case. Richard Keith was sworn in with Jim Fuqua, Attorney, on behalf of the application, testified requesting a special use exception to place a manufactured home type structure for use as a sales office; that the Applicant has a pending application with the Planning & Zoning Commission to create a subdivision; that the unit will be used as a sales office for that subdivision; that the unit will measure 14'x 65'; that the site will be landscaped; and that use of the unit shall be limited to a two (2) year period.

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 special use exception be **granted with the following stipulations:**

1. **Use of the structure shall be limited to sales office and related activities in connection with "Fenwick Shoals" subdivision located on same property.**
2. **Use of structure shall be limited to a period of two (2) years from the date of placement.**
3. **The site shall be landscaped and maintained in an attractive condition.**
4. **Location of the structure shall comply with setback requirements of the Zoning Ordinance.**

5. **This approval is subject to preliminary subdivision approval of "Fenwick Shoal" subdivision by the Sussex County Planning & Zoning Commission.**

Vote carried 5 – 0.

**Case No. 8154 – Roy and Tamara Carey** – east of Route 26, 765 feet south of Route 54.

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

Mr. Oates presented the case. Roy and Tamara Carey were sworn in and testified requesting a 24-foot variance from the required 40-foot front yard setback requirement for a through lot; that they purchased the land in 2001; that he built the shed on an existing concrete pad; and that the tenant house and other garage on the survey have been removed.

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

**Case No. 8155 – Patricia and Michael J. Harrigan** – west of Road 258, west of East Lake Drive, being Lot 15, within Lazy Lake Subdivision.

A variance from the front yard setback requirement.

Mr. Oates presented the case. Patricia Harrigan and Bruce Hawthorne were sworn in and testified requesting a 3.1-foot variance from the required 30-foot front yard setback requirement for a manufactured home; that she thought Mr. Harrigan had taken care of getting the unit properly placed on the lot; that some confusion came from the park having a greater setback than the County; and that she submitted pictures.

Mr. Oates stated that numerous variances have been granted in the park.

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 variance be **granted**. Vote carried 5 – 0.

**Case No. 8156 – Donna and Leonard Stokes** – south of Route 36, 37 feet west of Road 621.

A variance from the minimum lot width requirement.

Mr. Oates presented the case. Donna Stokes was sworn in and testified requesting a 39.94-foot variance from the required 150-foot lot width requirement; that she wants to split their 10-acre parcel down the middle; that the parcel with 110-foot of road frontage is the half of the parcel in which they reside; that the new parcel will have the required road frontage; and that their dwelling will meet the required setbacks after the subdivision.

Richard A. Rogers, was sworn in and testified in opposition to the application; that he is unsure of the request; that he lives adjacent to the parcel and did not receive notice of the hearing; that he is concerned that it will be subdivided to create more than one lot; and that he is concerned for an access road to his property.

Mr. Mills showed Richard Rogers the proposed subdivision and then Mr. Rogers stated that he is not opposed to the proposed subdivision.

In rebuttal, Donna Stokes, stated that the subdivision is for their own use and have no plans of further subdivision.

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

By a show of hands, 2 parties appeared 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. 8157 – Anna Marie Thomas** – east of Road 516, 1,265 feet south of road 525, being Lot B.

A variance from the minimum lot width requirement and a special use exception to operate a day care facility.

Mr. Oates presented the case. Anna Marie Thomas was sworn in and testified requesting a 87-foot variance from the required 150-foot lot width requirement for a lot and a special use exception to operate a day care facility; that she wants to subdivide the property and build a new dwelling and use the old dwelling for the day care facility; that she has no problem with a shared driveway; that she will care for 20 children once she completes the required courses; that the hours of operation are 24-hours a day, Monday

through Friday, and every other weekend; and that there is currently a fenced in playground.

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

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the variance and the special use exception be **granted with a maximum of 20 children**. Vote carried 5 – 0.

**Case No. 8158 – Carol L. Weber AKA Carol Weber Tyler** – southwest of Road 39-A, southwest of Green Street, being Lot 54, within Joseph D. Short Subdivision, 1<sup>st</sup> Addition.

A variance from the front yard setback requirement.

Mr. Oates presented the case. Carol Weber Tyler was sworn in with Barbara O’Leary, Attorney, on behalf of the application, testified requesting a 10.3-foot variance from the required 30-foot front yard setback requirement; that the deck is level with the living area of the dwelling; that the Applicant replaced the existing deck in the same footprint as the old deck; that all the neighbors have similar type decks; that she submitted pictures; and that the neighbors are in favor of the application.

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

Mr. Oates stated that the office had received 5 letters in favor of the application.

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

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

**Case No. 8159 – Richard Arnold** – east of Road 270, Snowmass Run, being Lot 199, within Aspen Meadows Mobile Home Park.

A variance from the separation requirement between units in a mobile home park.

Mr. Oates presented the case. Richard Arnold was sworn in and testified requesting a 0.8-foot variance from the required 20-foot setback between units in a mobile home park; that he built an 8’ x 18’ addition; that he measured from his neighbors unit for the 20-foot setback requirement; that he did not realize the requirement would also include from his neighbors shed; that the park and neighbors are in favor of the application; and that he submitted letters.

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.

Mr. Oates stated that there have been numerous variances granted in the park.

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

**Case No. 8160 – Robert Anderson** – south of Route One, 170 feet northwest of road 271, being Lot J-57, within Sea Air Mobile City Mobile Home Park.

A variance from the separation requirements between units in a mobile home park.

Mr. Oates presented the case. Joan Weber was sworn in and testified requesting a 5-foot variance from the required 20-foot setback requirement between units in a mobile home park; that the Applicant is proposing to build a 12' x 20' screen porch and a 12' x 20' deck; that the park approves of the application; and that the neighbors are 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.

Mr. Oates stated that numerous variances have been granted in the park.

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

**Case No. 8161 – Laurie Bronstein** – intersection of Madison Avenue and Bay Shore Drive, being Lot 5.

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

Mr. Oates presented the case. Laurie Bronstein was sworn in with Harold Purnell, Attorney, on behalf of the application, testified requesting a 18-foot variance from the required 30-foot front yard setback requirement and a 15-foot variance from the required 15-foot side yard setback requirement for a proposed dwelling; that the proposed dwelling will measure 24' x 40'; that the wetlands create a hardship to comply with the required setbacks; that the request is in keeping with the neighborhood; that Madison Avenue is not a maintained road; and that she submitted surveys and an exhibit.

Jean Hudson and Darrel Hudson were sworn in and testified in opposition to the application; that they were not sure exactly what was being requested; that they live on the adjacent property; that they are concerned the property will be rented out; and that once they realized the request is for the opposite side property line they have no objection to the application.

In rebuttal, Harold Purnell, stated that the Applicant plans to sell the property not rent it out.

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

Mr. Oates stated that the office received 1 letter in favor of the application.

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

**Case No. 8162 – Timothy Freeh** – east of Route 16, north of Bay Shore Drive, being Lot 70 and ½ Lot 71, Old Inlet Subdivision, Section II, Block A.

A variance from the front yard setback requirement.

Mr. Oates presented the case. Timothy Freeh was sworn in and testified requesting a 4-foot variance from the 30-foot front yard setback requirement for a proposed stairway with a platform; that the dwelling is currently being constructed; that the architect drew up plans with the proposed stairway; that a less desirable plan has been drawn up if the variance is not approved; and that the pilings that are currently driven can be used to comply if the request is denied.

Kate Magee, was sworn in and testified in opposition to the application; that she was unsure of the request; that she has seen the pilings and feels they are closer than the requested variance; and that she has no objection to the variance as requested.

In rebuttal, Timothy Freeh, stated that the pilings were driven where a licensed surveyor staked for them to go.

Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously that the variance be **granted for the requested 4-foot**. Vote carried 5 – 0.

**Case No. 8163 – John Gaffney** – west of Road 17, 2,000 feet south of Route 26.

A variance from the rear yard setback requirement.

Mr. Oates presented the case. John Gaffney was sworn in and testified requesting a 13.7-foot variance from the required 20-foot rear yard setback requirement for an existing garage; that he purchased the property in 2000; that the previous owner hired a contractor to erect the garage; that a Certificate of Occupancy has never been issued on the garage; and that the previous owner is trying to track down the contractor.

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 and a letter sent to the contractor**. Vote carried 5 – 0.

**Case No. 8164 – F. Leon and Rebecca Poffenberger** – east of Route 54, northwest of Hickory Lane, being Lot 21, within Keen-Wik Subdivision.

A variance from the front yard setback requirement.

Mr. Oates presented the case. Leon Poffenberger was sworn in and testified requesting a 7-foot variance from the required 30-foot front yard setback requirement for a proposed dwelling; that he purchased the property in 1997; that he would like to build the proposed dwelling in the same template as the existing dwelling; that the existing dwelling has been on the lot for over 20-years; and that the property is on a cul-de-sac which creates a hardship.

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 variance be **granted**. Vote carried 5 – 0.

**Case No. 8165 – M. L. J. Enterprises, Inc.** – east of U.S. Route 13, 230 feet south of Road 462.

A variance from the front yard setback requirement.

Mr. Oates presented the case. Donald Collins was sworn in and testified requesting a 7.4-foot variance from the required 60-foot front yard setback requirement for a proposed warehouse; that the previous buildings were further into the required setbacks; that the proposed warehouse will be identical to the existing warehouse; and that he has DelDot approval.

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 variance be **granted**. Vote carried 5 – 0.

**OLD BUSINESS**

**Case No. 8138 – Willard J. Hayes** – east of U.S. Route 13, 4,345 feet north of Route 54.

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

The Board discussed the case.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the special use exception be **granted for a period of 2 years and the stipulations that the unit be skirted and landscaped and that the unit meets the required setbacks**. Vote carried 5 – 0.

**Meeting Adjourned 8:35 p.m.**