

MINUTES OF MAY 5, 2003

The regular meeting of the Sussex County Board of Adjustment was held Monday evening May 5, 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and carried unanimously to approve the Revised Agenda, with the correction of Case No. 8169 – Joyce Y. Carney being withdrawn on April 30, 2003. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of April 21, 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. 8166 – George and Marie Mecleary – east of Route 22, east of Burrwood Road, being Lot 8, within Highview Subdivision.

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

Mr. Oates presented the case. George Mecleary was sworn in and testified requesting a 1-foot variance from the required 30-foot front yard setback requirement, a 1-foot variance from the required 10-foot side yard setback requirement, and a 1-foot variance from the required 10-foot side yard setback requirement for a deck with a ramp and a landing; that he submitted documents and pictures; that Kersey Homes obtained the proper permits; that due to the wetlands and the curve in the road it creates a hardship to meet all the required setbacks; and that there is no visible encroachment to the neighborhood.

Larry Andrews, was sworn in and testified in opposition to the application; that he owns Lot 7; that he questioned if the variances were approved could he build a deck later within the proposed variance; and that he would be opposed to a deck that close to his property line.

Mr. Mills, stated that the Board could stipulate that the variance be approved for the landing only.

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

Case No. 8167 – Walter Marin – southwest of Road 297, east of Clover Lane, being Lot 122, within Oak Meadows Subdivision.

A variance from the side yard setback requirement.

No one appeared on behalf of the application.

Judith R. Carr, was sworn in and testified in opposition to the application; that she lives next door; that the Applicant stores supplies on the property for his employer; and that she submitted pictures.

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 5 – 0.

Case No. 8168 – Ice House Liquors, Inc. – north of Route 1-A, 222 feet west of Church Street, being Lot 1, Block B, within Lincoln Park Subdivision.

A variance from the side yard setback requirement for a ground sign.

Mr. Oates presented the case. Darlene Matthes was sworn in and testified requesting a 17-foot variance from the required 20-foot side yard setback requirement for a ground sign; that they are prohibited to dig where they could meet the required setback due to the underground utilities; and that the new building sits farther back on the property.

The Board found that no parties appeared in support 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.

Case No. 8169 – Joyce Y. Carney – southwest of Route 54, east of Grant Avenue, being Lot 8, within Cape Windsor Subdivision.

A variance from the side yard setback requirement.

This case was withdrawn on April 30, 2003.

Case No. 8170 – Dr. Larry Bryant – north of Road 368, east of Greenwich Lane, being Lot 55, within Southampton.

A variance from the rear yard setback requirement.

Mr. Oates presented the case. Herman Oest was sworn in and testified requesting a 2-foot variance from the required 10-foot rear yard setback requirement for a deck; that he is the builder for the Applicant; that he would like to have a 4-foot variance; that the rear of the property is adjacent to woods and a common area; and that the Applicant changed her mind from a sunroom to a deck.

Mr. Mills stated that a variance would not be required for the proposed deck.

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

Case No. 8171 – Nicholas and Anne Cotsaris – south of Route 54, south of Garfield Avenue, being Lot 15, within Edgewater Acres Subdivision.

A variance from the rear yard setback requirement.

Mr. Oates presented the case. Nicholas and Anne Cotsaris were sworn in and testified requesting a 9-foot variance from the required 20-foot rear yard setback requirement for a sunroom and second-level deck; that Country Sunrooms obtained the permit; that her husband had a stroke and the sunroom provides a place for him to enjoy his home; and that she submitted pictures.

Loretta and Tony Vineland, were sworn in and testified in favor of the application; that since the Applicant's stroke it is virtually impossible for Mr. Costaris to leave his dwelling on a daily basis; and that the deck has existed on the property since 1985.

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

Mr. Oates stated the office received 1 letter in opposition to the application.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variance be **granted, and that a letter be sent to Country Sunrooms**.
Vote carried 5 – 0.

Case No. 8172 – Robin A. Timmons and G. Royce White – south of Road 415-A, 1,958 feet northwest of Road 419.

A variance from the side yard setback requirement.

Mr. Oates presented the case. Robin Timmons White was sworn in and testified requesting a 2-foot variance from the required 15-foot side yard setback requirement for a

detached garage; that the detached garage measures 30' x 40'; that Pioneer Pole Buildings erected the detached garage; that she is responsible for the error in where the garage was placed; that she wanted the garage to line up with the existing driveway; and that her parents own the adjacent property.

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. Mills, and carried unanimously that the variance be **granted**. Vote carried 5 – 0.

Case No. 8173 – Rich and Diane Yerger – north of Road 361, west of Ogre Drive, being Lot 104, within Ocean Way Estate Subdivision.

A variance from the side yard setback requirement.

Mr. Oates presented the case. Rich and Diane Yerger were sworn in and testified requesting a 4-foot variance from the required 10-foot side yard setback requirement for a proposed attached garage; that they just built a modular dwelling; that the proposed attached garage will measure 24' x 24'; and that the configuration of the lot leaves little room to meet the required setbacks.

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. 8174 – 1st State Storage – south of Route 18, west of Saulsbury Lane, being Lot 24, within The Village At Saulsbury Switch Subdivision.

A variance from the side yard setback requirement.

Mr. Oates presented the case. Mark Vugrinec was sworn in and testified requesting a 0.2-foot variance from the required 15-foot side yard setback requirement for a new dwelling; that when the lot was created the stake marking the property line was pulled up and moved; that the measurement was taken from that stake when they poured the footers; and that the dwelling was located to accommodate a future garage.

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.

Case No. 8175 – Robert West – east of Road 42, 1,724 feet north of Road 624, being Lot 1.

A variance from the minimum lot size for a public stable and a variance from the side yard setback requirement.

Mr. Oates presented the case. Robert West was sworn in and testified requesting a variance for more than four (4) horses on a lot less than five (5) acres, and a 105-foot variance from the required 200-foot side yard setback, and a 100-foot variance from the required 200-foot side yard setback requirement for a public stable; that he has four (4) horses and wants to add two (2) more; that he is going to place the stable in the center of the property; and that he is the owner of all the horses.

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

Case No. 8176 – Jeff and Mary Meredith – 477 feet south of Road 535, south of Frances Circle, south end of Ruth Street.

A variance from the side yard setback requirement.

Mr. Oates presented the case. Jeff and Mary Jane Meredith were sworn in and testified requesting a 2-foot variance from the required 15-foot side yard setback requirement for a proposed addition; that the existing porch will be removed; and that the neighbor adjacent to the property is in favor of the application.

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

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variance be **granted due to the odd shape of the property**.
Vote carried 5 – 0.

Case No. 8177 – Michael W. Calloway, Jr. – north of Road 465, east of Cypress Lane, being Lot 27, within Old Church Landing Subdivision.

A variance from the side yard setback requirement.

Mr. Oates presented the case. Michael Calloway, Jr. was sworn in and testified requesting a 5-foot variance from the required 15-foot side yard setback requirement a 26' x 26' detached garage; that the builder, Donald Cordrey, obtained the building permit; that the Association approved the application; that the Planning and Zoning Department informed the Applicant of the violation; and that he centered the garage between his dwelling and the neighbors dwelling.

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, and that a letter be sent to the builder**. Vote carried 5 – 0.

Case No. 8178 – Mr. And Mrs. William Sykes – south of Road 244, 2 miles east of U.S. Route 113.

A special use exception to operate a commercial dog kennel and a variance from the side yard and rear yard setback requirements.

Mr. Oates presented the case. William and Dawn Sykes were sworn in and testified requesting a special use exception for a commercial dog kennel, a 80-foot variance from the required 200-foot rear yard setback requirement, and a 51-foot variance from the required 200-foot side yard setback requirement; that the kennel will be located 200-foot from the nearest neighbor; that the kennel will be placed to the rear of the property in a wooded area; that the dogs will be kept inside at night; that the building will measure 30' x 64'; that they will have six (6) dogs at all times for breeding; and that all puppies will be sold.

Jackie Garrison, was sworn in and testified in opposition to the application; that she just built a new dwelling next door; that she is concerned for the noise; and that the fence runs right along her property line.

In rebuttal, William and Dawn Sykes, stated that the existing fence will be removed; and that the reason for this application is to get the dogs farther away from the neighbors property.

Ms. Garrison, stated that she would be in favor of the dog kennel in the proposed location.

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

Mr. Oates, stated that the office received a letter in opposition to the application.

Motion by Mr. McCabe, seconded by Mr. Workman, and carried unanimously that the case be **tabled until May 19, 2003**. Vote carried 5 – 0.

Case No. 8179 – Wayne C. Whalen, Sr. – east of Route 24, south of White Pine Drive, being Lot 24, within Pines At Long Neck Subdivision.

A variance from the rear yard setback requirement.

Mr. Oates presented the case. Wayne Whalen, Sr. was sworn in and testified requesting a 5-foot variance from the 10-foot rear yard setback requirement for a proposed a screen porch; that the screen porch will measure 12' x 24'; and that the rear yard is adjacent to a wooded lot with farm land beyond that.

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. 8180 – Neal Wharton – northwest of Poplar Street, northeast of Locust Street, being Lots 19, 20, 21 and 22, Block D, within Woodland Heights Subdivision.

A variance from the front yard setback requirement.

Mr. Oates presented the case. Neal Wharton was sworn in and testified requesting a 5-foot variance from the required 30-foot front yard setback requirement; that the manufactured home was placed by Kersey Homes; that the manufactured home was place right at the setback line; and that he will be adding a stairway and a second floor to the manufactured home.

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

OLD BUSINESS

Case No. 8139 – Abundant Life Church, Inc. – north of Road 243, 600 feet east of Road 114.

A variance from the front yard setback requirement.

The Board reviewed the requested survey.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variance be **granted for 4.1-foot**. Vote carried 5 – 0.

Meeting Adjourned 8:30 p.m.