

MINUTES OF JUNE 16, 2003

The regular meeting of the Sussex County Board of Adjustment was held Monday evening June 16, 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 the 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. McCabe, and carried unanimously to approve the Revised Agenda with the correction to hear Case No. 8224 – Vernon Heath first due to the Applicant's health condition. Vote carried 5 – 0.

Motion by Mr. Hudson, seconded by Mr. McCabe, and carried unanimously to approve the Minutes of June 2, 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.

Mr. Mills stated that the Board members received a letter of opposition for Case No. 8211 and presented a copy of the letter to the Applicant.

Case No. 8224 – Vernon Heath – west of Road 296, 818 feet south of Road 302-A.

A variance from the side yard setback requirement.

Mr. Oates presented the case. Vernon Heath was sworn in and testified requesting a 1-foot variance from the required 15-foot north side yard setback requirement for an existing manufactured home; that he believes the survey was incorrect at the time the unit was placed; that B & M Builders obtained the placement permit; and that he can provide the Board with the builders address.

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 with a letter sent to the builder**. Vote carried 5 – 0.

Case No. 8211 – Lawrence and Nancy Odette – east of Route One, 526.88 feet north of Fifth Street.

A variance from the side yard setback requirement.

Mr. Oates presented the case. John Sergovic, Attorney, was sworn in and testified requesting a 7.83-foot variance from the required 10-foot side yard setback requirement for a proposed porch on an existing detached garage; that the Applicant is remodeling the existing dwelling and garage; that a variance was granted for the garage in 1992; that the proposed porch will be the same distance from the property line as the existing garage; that the request does not adversely affect the neighborhood; and that he submitted pictures and a list of neighbors in favor of the application.

Neal Cole, was sworn in and testified in opposition to the application; that he was the previous owner of the property; that the previous variance was needed due to a shift in the property line; that if this variance is granted the porch will be within 2-feet of his property line; that he and his family live on their property; and that the neighbors in favor of the application don't live here year round.

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

Motion by Mr. McCabe, seconded by Mr. Hudson, and carried unanimously that the case be **tabled until July 7, 2003**. Vote carried 5 – 0.

Case No. 8212 – Express Hotel, Inc. – south of Road 361-A, 60 feet east of Route One.

A special use exception for an off premise sign.

Mr. Oates presented the case. Skip Smith was sworn in and testified requesting a special use exception for an off premise sign; that the Applicant wishes to move an existing off premise sign; that the new location is needed for the flow of traffic; that in the existing location traffic has to double back on the opposite side of the highway; that a small directional sign will be placed in the current location; and that both signs will meet the County regulations.

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**. Vote carried 5 – 0.

Case No. 8213 – Robert J. and Deborah J. Dickey – east of Road 315, 2,150 feet north of road 316.

A special use exception to operate a bed and breakfast facility.

Mr. Oates presented the case. Robert Dickey was sworn in and testified requesting a special use exception to operate a bed and breakfast facility; that he purchased the property 2-years ago; that the dwelling has 4 bedrooms and 3 baths; that they are seeking to rent out only 3 bedrooms; that they have attended a training seminar on how to run a bed and breakfast business; and that they have adequate parking.

Eleanor Reifsnyder, was sworn in and testified in opposition to the application; that she was concerned how many rooms are permitted; that she is concerned if a new owner could increase the number of rooms; and that she is not opposed to the proposed 3-bedroom bed and breakfast facility.

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

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the special use exception be **granted with the stipulation that only 3 bedrooms are available for rent**. Vote carried 5 – 0.

Case No. 8214 – Robert W. Nash – west of U.S. Route 13, 1,832 feet north of Road 589A.

A variance from the minimum lot size requirement, a variance from the minimum lot width requirement, and a variance from the side yard setback requirement.

Mr. Oates presented the case. Harry H. Murphy was sworn in and testified requesting a 53.04-foot variance from the required 150-foot lot width requirement, a 11.1-foot variance from the required 15-foot side yard setback requirement, a 9.8-foot variance from the required 15-foot side yard setback requirement, and a 0.2-foot variance from the required 5-foot side yard setback requirement; that the Applicant wants to sell the existing dwelling; that the lot was previously owned by Nanticoke Homes; and that surveys were submitted.

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. 8215 – Havey Hyland, Jr. – east of Route 24, 343 feet north of Old Horsey Mill Road.

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

Mr. Oates presented the case. Harvey Hyland, Jr. was sworn in and testified requesting a 10-foot variance from the required 15-foot side yard setback requirement and a 15-foot variance from the required 20-foot rear yard setback requirement for a proposed detached garage; that the proposed garage will measure 28' x 44'; that due to the size of the lot and his existing dwelling he needs a variance; that there is an old Cypress tree on the lot that he does not want to cut down; and that his septic system is on the opposite side of the property.

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. 8216 – Joseph Demay – southwest of Road 395, corner of Sea road and Gull Road, being Lot 59, Block 2, within Bayview Estates Subdivision.

A variance from the side yard setback requirement.

Mr. Oates presented the case. Joseph Demay was sworn in and testified requesting a 5-foot variance from the required 15-foot side yard setback requirement; that he replaced a shed; that the Zoning Inspector made him aware of violation; that if he moves the shed it will block his bedroom window; and that he has to keep the shed 25-foot from the water.

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. 8217 – Jonathan and Cheryl Stout – south of road 312, ½ mile west of Road 297.

A variance from the front yard setback requirement.

Mr. Oates presented the case. Jonathan Stout was sworn in and testified requesting a 10-foot variance from the required 30-foot front yard setback requirement for a proposed garage; that the garage will measure 24' x 24'; that they have been

remodeling the dwelling and wish to add a garage; and that other dwelling in the area are all closer to the road due to the age of the development.

Mr. Oates stated that the office received 3 letters in favor of the application.

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

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

Case No. 8218 – Harry Heck, Jr. – east of Road 279, southwest of Pine Road, being Lot 12, within Angola Neck Acres Subdivision.

A variance from the side yard setback requirement.

Mr. Oates presented the case. Harry Heck, Jr. was sworn in and testified requesting a 2.6-foot variance from the required 10-foot side yard setback requirement for a manufactured home and a 4.2-foot variance from the required 10-foot side yard setback requirement for a shed; that he purchased the property in 1998; that he replaced the existing unit due to excessive damage; that the shed is placed over an old well pit; that he subdivided the parcel; and that the new survey showed the encroachments.

Troy Vernden, was sworn in and testified in opposition to the application; that he is more concerned with a front setback encroachment; and that he is not in opposition to the requested variances.

Suzette Stewart, was sworn in and testified in opposition to the application; that the Applicant does not live on the property; and that she feels the shed should be replaced.

Kay Imhoff, was sworn in and testified in favor of the application; that she sold the manufactured home to the Applicant; that the unit is a substantial improvement; and that she helped with the landscaping.

In rebuttal, Harold Heck, Jr., stated that the purchasers of the lot plan to replace the shed.

Motion by Mr. McCabe to approve, motion failed for lack of a second.

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 hearings, the Chairman referred back to this case. Motion by Mr. McCabe, seconded by Mr. Hudson, and carried unanimously that the variances be **granted with the stipulation that the shed be replaced.** Vote carried 5 – 0.

Case No. 8219 – Joan Freeman – northwest of Route 64, southwest corner of Denise Boulevard and Tina Avenue, being Lot 42 within Villa Park Estates Subdivision.

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

Mr. Oates presented the case. Gary Groy was sworn in and testified requesting a special use exception to connect two (2) manufactured homes to make one (1) unit; that the Applicant wants to add living space to her existing unit; that the unit will meet all required setbacks; that the existing unit is a 1977 model; and that they have not yet purchased the second unit.

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

Mr. Oates stated that the office received 1 letter that was in favor and 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 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 six (6) months.**

Vote carried 5 – 0.

Case No. 8220 – Clifford Fitting – southwest of Road 395, corner of Sea Gull Road and Bay View East, being Lots 1 and 2 within Bayview Estates Subdivision.

A variance from the side yard setback requirement.

Mr. Oates presented the case. Clifford Fitting was sworn in and testified requesting a 10-foot variance from the required 15-foot side yard setback requirement for a proposed shed; that this is the best location for the shed due to the lot being on the corner; and that the proposed shed will measure 12' x 15'.

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 5 – 0.

Case No. 8221 – Mark Hardesty and David Smith – east of Beaver Dam Drive, north of U. S. Route 13 North, being Lot 15 and part of Lot 16 within Beaver Dam Heights Subdivision.

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

Mr. Oates presented the case. Scott Regan was sworn in and testified requesting a 12.7-foot variance from the required 30-foot front yard setback requirement and a 2.4-foot variance from the required 15-foot side yard setback requirement for an existing dwelling; that the dwelling has been repossessed; that the dwelling was built in 1971; that the property has been transferred twice before; and that the survey showed the encroachment.

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. 8222 – Harold and Geraldine Burris east of Road 232, corner of Hudson Alley and Road 232.

A special use exception for replacement of a nonconforming manufactured home.

No one appeared on behalf of the application.

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

Case No. 8223 – Pulte Home Corporation – west of Route One, 8,800 feet south of Road 501.

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

Mr. Oates presented the case. Belinda Huesman and Brian McManus were sworn in and testified requesting a special use exception to place a manufactured home type structure for sales office; that the unit will measure 12' x 56'; that the use is needed for six months; that the plans have been approved by the Building Code Department; and that the unit will have to be removed to construct the last townhouse.

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

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

OLD BUSINESS

Case No. 8208 – D. Blake Thompson – north of Shady Ridge Drive, 900 feet west of Road 270A, being Lots 25, 26 and 27 within Shady Ridge Subdivision.

A variance from the front yard setback requirement.

The Board discussed the case.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the case be **tabled until July 7, 2003**. Vote carried 5 – 0.

Case No. 8196 – Patrick J. and Shari Tell – south of Road 312, 75 feet west of Road 297.

A variance from the side yard setback requirement.

See Case No. 8204 for details.

Case No. 8197 – Dorothy F. Seier – southeast of private road, 100 feet south of Indian River Bay, within West Beach.

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

See Case No. 8204 for details.

Case No. 8198 – James F. and Vicki L. Sadowski – north of Road 279B, south of Hunt Club Road, being Lots 43, 49 and 55 within Joy Beach Subdivision.

A variance from the rear yard setback requirement.

See Case No. 8204 for details.

Case No. 8199 – Linda J. Wagner – northeast of Road 297, east of Mercer Avenue, being Lot 7 within Addition to Oak Orchard Subdivision.

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

See Case No. 8204 for details.

Case No. 8200 – Michael V. and Susan M. Masciandaro – south of road 312, 480 feet west of Road 297.

A variance from the side yard setback requirement.

See Case No. 8204 for details.

Case No. 8201 – John C. and Patricia E. Rudy – north of Road 297, south of River View Avenue, being Lots 21 and 22 within Addition to Oak Orchard Subdivision.

A variance from the front yard setback requirement.

See Case No. 8204 for details.

Case No. 8202 – Paul E. and Rosene Wagner – northeast of Road 297, east of Mercer Avenue, being Lots 9, 10, 11, 19 and 20 within Addition to Oak Orchard Subdivision.

A variance from the front yard setback requirement.

See Case No. 8204 for details.

Case No. 8203 – Patricia E. Vassallo – northeast of Road 297, south of River View Avenue, being Lots 25 and part of 26 within Addition to Oak Orchard Subdivision.

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

See Case No. 8204 for details.

Case No. 8204 – Linda J. Wagner – northeast of Road 297, east of Mercer Avenue, being Lot 8 within Addition to Oak Orchard Subdivision.

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

The Board discussed the cases.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the cases be **tabled until the Applicants submit final placement surveys.**
Vote carried 5 – 0.

Meeting Adjourned 9:00 p.m.