

MINUTES OF JULY 21, 2003

The regular meeting of the Sussex County Board of Adjustment was held Monday evening July 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. Berl – Assistant County Attorney, Mr. Oates – Zoning Inspector II, and Ms. Jackson – 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 5 – 0.

Motion by Mr. Hudson, seconded by Mr. Mills, and carried unanimously to approve the Minutes of July 7, 2003 at the next meeting that not all members received their copies of the Minutes. 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. 8241 – Extended Life Products DBA Oreck Vac. – southwest of Route One, 3,240 feet south of Road 275A.

A variance for additional wall signs.

Mr. Oates presented the case. Beverly McKay was sworn in and testified requesting a variance for 2 additional wall signs; that they were under the impression the permit obtained was for all the proposed signs; that the signs measure 20-square-foot on the north side, 16-square-foot on the south side, and 12' x 11' on the east side; and that the sign from the front of the building was moved to the rear of the building.

Mr. Mills stated that the Board needed to know the exact square-footage of the signs and the square area of the walls.

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. McCabe, and carried unanimously that the case be **left open until July 28, 2003 to allow the Applicant to respond to the Board's request.** Vote carried 5 – 0.

Case No. 8242 – Sandra Vendetta – west of Route One, south of Sea Air Avenue, being Lot B-91 within Sea Air Mobile City Mobile Home Park.

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

Mr. Oates presented the case. Sandra Vendetta was sworn in and testified requesting a 6.5-foot variance and a 10-foot variance from the required 20-foot separation requirement between units in a mobile home park; that the park gave her permission to place the shed; that the park did not make her aware that it would be in violation with the County; that her permit did not note the 20-foot separation requirement between units; and that she submitted her letter of approval from the park.

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

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

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

Case No. 8243 – Robert and Nancy Knerr – south of Road 308, east of Hillcrest Drive, being Lot 29 within Hillcrest Acre Development.

A variance from the front yard setback requirement.

Mr. Oates presented the case. Robert Knerr was sworn in and testified requesting an 11-foot variance from the required 30-foot front yard setback requirement for a screen porch; that Chris Justin of CJ Contracting obtained the permit; that a zoning inspector made the Applicant aware of the violation; that he made the contractor aware of the violation; and that he submitted pictures.

Mr. Oates stated that the office received 2 letters 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 with a letter sent to the contractor**. Vote carried 5 – 0.

Case No. 8244 – Jeffrey T. Walker – northeast of Route 5, southwest of Hillenwood, being Lot 25 within Pot Nets Bayside Mobile Home Park.

A variance from the separation requirement between units in a mobile home park and a variance from the side yard setback requirement.

Mr. Oates presented the case. Barbara Walker was sworn in and testified requesting a 2-foot variance from the required 20-foot separation requirement between units and a 4.6-foot variance from the required 10-foot side yard setback requirement; that they extended and enclosed an existing carport; that a zoning inspector made them aware of the violation; and that Zane Walker, her husband, obtained the permit.

Mr. McCabe stated that according to the drawing submitted by the Applicant that only a 3.6-foot variance is needed.

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 variances be **granted for a 3.6-foot and a 2-foot variance**. Vote carried 5 – 0.

Case No. 8245 – Elizabeth M. Schafer - .03 mile northwest of Route 18 (Savannah Road), northwest of Sussex Drive, being Lot 53 within Highland Acres Development.

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

Mr. Oates presented the case. Elizabeth Schafer was sworn in with Barbara O'Leary, Attorney, on behalf of the application testified requesting a 5.7-foot variance from the required 10-foot side yard setback requirement for a dwelling, a 0.3-foot variance from the required 20-foot rear yard setback requirement for a detached garage, and a 5-foot variance from the required 5-foot side yard setback requirement for a shed; that the shed has been removed; and that the dwelling has 2 bedrooms.

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

Motion by Mr. Hudson, seconded by Mr. Mills, and carried unanimously that the variances be **granted with the variance for the shed not necessary**. Vote carried 5 – 0.

Case No. 8246 – Kim and Amos Hostetter, III – south of Road 277, east of Dogwood Drive, being Lot 7 within Angola By the Bay Development.

A variance from the side yard setback requirement.

Mr. Oates presented the case. Amos Hostetter, III was sworn in and testified requesting a 3-foot variance from the required 10-foot side yard setback requirement; that the development has approved the plans; that the variance is for a sunroom and fireplace; that the parcel behind him is vacant; and that the dwelling is under construction.

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. 8247 – Oby and Tonya Gale – south of Route One A, 500 feet east of Road 273, being Lots 3, 4 and 6 within Lincoln Park Development.

A variance from the front yard setback requirement and a variance for additional wall signs.

Mr. Oates presented the case. Oby and Tonya Gale were sworn in and testified requesting a 15-foot variance from the required 40-foot front yard setback requirement to enclose an existing deck, and a variance for 2 additional wall signs; that they plan to enclose the existing porch; that they want to change the overall appearance of the business; that a 21' x 4' sign will be placed on the warehouse so that it will be visible from Route One; that a 4' x 6' sign will be placed on the front of the business so that it will be visible from Rehoboth Avenue Extended; and that they submitted drawings of the proposed signs.

By a show of hands, 1 party appeared in support of or in opposition to 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 variances be **granted**. Vote carried 5 – 0.

Case No. 8248 – Walter C. Hudson – east of Route One, east of Edge Avenue, being Lot N-55 within Sea Air Mobile City Mobile Home Park.

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

Mr. Oates presented the case. Aaron Smith was sworn in and testified requesting a 5.6-foot variance from the required 20-foot separation requirement between units in a mobile home park; that a screen porch and addition already exist; that he is extending the screen porch so that it will be even with the existing addition; and that he is putting a new roof on the screen porch.

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. 8249 – Gloria J. and Richard L. West, Jr. – south of Route 20, 3,900 feet west of Road 485.

A special use exception to increase capacity of an existing day care facility.

Mr. Oates presented the case. Gloria West was sworn in and testified requesting a special use exception to increase the capacity of an existing day care facility; that she wants to increase her capacity from 9 children to 12 full-time and 2-part time children; that her hours of operation will be 24-hours a day, seven days a week; that she just added a 20' x 32' addition to her home to accommodate the increase; and that she has a Level 2 license and has been in business for 7-years.

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

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the special use exception be **granted for 12 plus 2 children and that the hours of operation will be 24-hours a day seven days a week**. Vote carried 5 – 0.

Case No. 8250 – Doris and William T. Trice, III – south of Road 40 (Redden Road), 600 feet west of Road 591.

A special use exception from the provisions and requirements to retain a manufactured home on a parcel.

Mr. Oates presented the case. William Trice, III was sworn in and testified requesting a special use exception to retain a mobile home on less than five acres; that he just purchased an acre where the unit is located; that the unit has been on the lot for 22-years; that he has lived on the property for 30-years; and that the unit meets the front yard setback requirement.

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

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

Case No. 8251 – Habib and Nastaran Bolourchi – southwest of Route 24, southwest of Route One, being Lots 8, 9, and 10 within Truitt's Midway Development.

A variance from the front yard setback requirement and a variance from the landscape buffer requirement.

Mr. Oates presented the case. Habib Bolourchi was sworn in with Harold Dukes, Attorney, on behalf of the application testified requesting a 10.65-foot variance from the required 60-foot front yard setback requirement and 20-foot variance from the required 20-foot landscape buffer; that the Applicant has been a heart specialist since 1980; that the existing office was built in 1986; that due to the new technology an addition is needed; and that the Applicant is combining the two parcels.

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. 8252 – Long Neck Apartments Associates, L.P. – east of Route 24, 500 feet south of Route 22.

A variance from the separation requirement between multi-family structures.

Mr. Oates presented the case. Preston Dyer was sworn in and testified requesting an 8-foot variance from the required 40-foot setback requirement between multi-family structures for the attached utility sheds; that they are not considered accessory structures by the Planning & Zoning Department; and that he submitted plans to the Board.

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. 8253 – Savannah East Associates, LP – northeast of Route One, 300 feet west of Road 268.

A variance from the separation requirement between multi-family structures.

Mr. Oates presented the case. Preston Dyer was sworn in and testified requesting a 7-foot variance, a 7.3-foot variance, and a 7.7-foot variance from the required 40-foot setback requirement between multi-family structures for the attached utility sheds; that this case is the same situation as the previous case in Long Neck Apartments; 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. Hudson, and carried unanimously that the variances be **granted**. Vote carried 5 – 0.

Case No. 8254 – Michael J. and Teresa S. Walsh – east of Road 327, west of Dogwood Estates Drive, being Lot 48 within Dogwood Estates Subdivision.

A variance from the rear yard setback requirement.

Mr. Oates presented the case. Michael and Teresa Walsh was sworn in and testified requesting a 6.4-foot variance from the required 20-foot rear yard setback requirement for a proposed sunroom; that the sunroom will measure 10' x 16'; that the addition will be built on an existing concrete slab; and that the builder that is purchasing the lot behind him is 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.

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

Case No. 8255 – Anthony and Teresa DeFazio – east of Route One, east of Mill Creek Court, being Lot 7 within Mill Creek Manor Development.

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

Mr. Oates presented the case. Anthony DeFazio was sworn in and testified requesting a 6-foot variance from the required 30-foot front yard setback and a 4.4-foot variance from the required 15-foot side yard setback requirement; that he built a 12' x 18' screen porch; that a zoning inspector sent him a violation; that he thought the porch was built on the side of his property but is actually the front of his property; and that the garage and stairs existed when he purchased the home.

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 due to the odd shape of the lot**. Vote carried 5 – 0.

OLD BUSINESS

Case No. 8239 – Frank J. Murray, III – north of Route 22, west of Harbor Road, being Lot 16 within Malone's Bayside Mobile Home Park.

A variance from the separation requirement between units in a mobile home park and a variance from the side yard setback requirement.

Mr. Oates stated that the office has not received a survey from the Applicant and the park has a 5-foot setback requirement.

Mr. Mills stated that he still wants a survey from the Applicant.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the case be **left open until August 4, 2003**. Vote carried 5 – 0.

Case No. 8240 – Paul Blinkhorn – south of Baltimore Street, being Lot 24 and part of Lot 23 within Bayview Park Development.

A variance from the front yard setback requirement.

Mr. Berl stated that the deck is 12-foot high and cannot encroach 5-foot into the required setback.

Mr. Berl wrote a letter in March 2002 to the Applicant's attorney and the Applicant got caught in the middle of the ordinance change, however the letter did not make reference to the deck.

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

OTHER BUSINESS

Case No. 7838 – Julie A. Cooper – east of Route 5, west of Route One, within Waples Pond Acres.

A variance from the front yard setback requirement.

Mr. Oates read a letter from the Applicant requesting an extension.

Motion by Mr. McCabe, seconded by Mr. Workman, and carried unanimously that the extension be **granted for a period of six (6) months**. Vote carried 5 – 0.

Case No. 7855 – Edward and Linda Shinn – east of Route 30, 1,900 feet south of Road 294.

A special use exception to operate a day care facility.

Mr. Oates read a letter from the Applicant requesting an extension due to the fact that the septic system could not be completed due to inclement weather.

Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously that the extension be **granted for a period of six (6) months**. Vote carried 5 – 0.

Meeting Adjourned 8:39 p.m.