

MINUTES OF JULY 28, 2003

A special meeting of the Sussex County Board of Adjustment was held Monday evening July 28, 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 Agenda as circulated. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of July 7, 2003 and the Minutes of July 21, 2003 as circulated. 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. 8256 – Dennis Wayne Samuel – south of Route 54, north of Breakwater Run, being Lot 140 within Keenwick Sound Development.

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

Mr. Oates presented the case. Dennis Wayne Samuel was sworn in and testified requesting a 25-foot variance from the required 30-foot front yard setback requirement for a shed; that his lot is a through lot; that he replaced an existing 6' x 8' shed with a 10' x 12' shed; that the Association is in favor of the application; and that numerous variances have been granted in the development.

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. 8257 – Cecelia Cardano – north of Texas Avenue, 150 feet west of North Bay Shore Drive, being Lot 25 within North Shores Development.

A variance from the side yard setback requirement.

Mr. Oates presented the case. Cecelia Cardano was sworn in and testified requesting a 4-foot variance from the required 10-foot side yard setback requirement for an existing deck; that in April 2000 she was approved for a 2-foot variance; that the

previous variance was granted for only 2-foot; that the error was picked during the sale of the property; and that she 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. Hudson, and carried unanimously that the variance be **granted for 4-foot on the west side**. Vote carried 5 – 0.

Case No. 8258 – Baker Mill Rd LLC – north and south of Road 483, 3,100 feet east of Road 20, being Lot 4.

A variance from the minimum lot width requirement for a parcel.

Mr. Oates presented the case. John Eckenrode was sworn in and testified requesting a 100-foot variance from the required 150-foot lot width requirement for a parcel; that he purchased the property in 2001; that the lots will be used for single-family dwellings; that the existing building on Lot 4 will be removed; and that he has no objection to have a shared driveway between Lots 1 and 2.

Mr. Mills stated that a variance was also needed for lot width on Lot 1.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variances be **granted with the stipulation that Lots 1 & 2 share a driveway and the buildings will be removed within six (6) months**. Vote carried 5 – 0.

Case No. 8259 – Providence Land Ltd. – southwest of Road 361, southwest of John Hall Drive, being Building 27 A-G within Providence Development.

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

Mr. Oates presented the case. Mark Fitzgerald was sworn in with Heidi Balliett, Attorney, on behalf of the application, and testified requesting a 1.6-foot variance from the required 40-foot setback between multi-family units; that the error was discovered after construction was completed; that the Applicant has built many projects and has never needed a variance; that the unit that is most affected by the variance is not yet occupied; and that approval of the variance will not create an safety hazards.

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. 8260 – PH Millville LLC – north of Route 26, 40 feet west of Route 17.

A special use exception to replace billboards.

Mr. Oates presented the case. Dale McCalister was sworn in and testified requesting a special use exception to replace billboards; that the existing billboards are made of wood and they are in need of repair; that the owner wants to replace the billboards with steel mono-pole structures; that the existing billboards do not meet the required setbacks; that the new billboards will meet all required setbacks; 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. Hudson, and carried unanimously that the special use exception be **granted**. Vote carried 5 – 0.

Case No. 8261 – Richard Roop, Jr. – northeast of U.S. Route 13, north of Road 488, being Lot 5 within Lowry Development.

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

Mr. Oates presented the case. Richard Roop, Jr. was sworn in and testified requesting a special use exception to place a manufactured home type structure for a sales office; that he has torn down an existing unit that was used as a sales office; that he will have a fenced in area; and that he plans to build a permanent structure within the next two years.

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 special use exception be **granted for a period of two (2) years**. Vote carried 5 – 0.

Case No. 8262 – James and Renee Nalls – south of Route 54, northeast of Maple Lane, being Lot 24 within Keenwick Development.

A variance from the side yard setback requirement.

Mr. Oates presented the case. Ron Wesche was sworn in and testified requesting a 5-foot variance from the required 10-foot side yard setback requirement; that the Applicant is seeking the request so that they may build a larger dwelling; that the neighbors are in favor of the application; 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. Workman, and carried unanimously that the variance be **granted for both sides of the lot**. Vote carried 5 – 0.

Case No. 8263 – Michael L. Hollingsworth, Sr. – southeast of Road 641, 75 feet east of U.S. Route 113.

A variance from the front yard setback requirement.

Mr. Oates presented the case. Michael Hollingsworth, Sr. was sworn in and testified requesting a 20-foot variance from the required 40-foot front yard setback requirement; that he purchased the property a year and a half ago; that he measured from the edge of the road; and that the houses have been on the lot since the 1940's.

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 **left open until the next meeting on August 4, 2003 so the Applicant can submit a survey**. Vote carried 5 – 0.

Case No. 8264 – Verne W. and Ricky P. Wolf – east of Road 351, north corner of Susan Street and Bonnie Street, being Lot 1, Section D within Banks Harbor Retreat Development.

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

Mr. Oates presented the case. Verne and Ricky Wolf were sworn in and testified requesting a 6-foot variance from the required 30-foot front yard setback requirement and a 1-foot variance from the required 30-foot front yard setback requirement for an attached garage on a through lot; that they are the third owners of the property; that the attached garage was built with the dwelling in 1983; that all the proper permits were obtained; and that a survey was submitted.

Mr. Oates stated that the office received 5 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 variances be **granted**. Vote carried 5 – 0.

Case No. 8265 - Michael L. Cohan – south of Route One, southwest of Lancaster Lane, being Lot 128 within Rolling Meadows Subdivision.

A variance from the side yard setback requirement.

Mr. Oates presented the case. Michael Cohan and Kimberly Paige Cohan were sworn in and testified requesting a 7.5-foot variance from the required 15-foot side yard setback for a 28' x 28' attached garage; that the proposed placement of the garage will line up with the existing driveway; and that the neighbors on both sides of his property 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 received 1 letter in favor of the application and 1 letter 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. 8266 – Michael A. Poff – east of Road 42, 600 feet south of Road 36.

A special use exception to place a manufactured home on a medical hardship basis.

Mr. Oates presented the case. Michael A. Poff was sworn in and testified requesting a special use exception to place a manufactured home on a medical hardship basis; that the unit will be used by his mother-in-law; that the unit will be placed on the rear of the property; and that he has not yet purchased a unit.

Horace Holden and Gladys Holden were sworn in and testified in opposition to the application; that he questioned the hardship; that he wanted to know how the second home would effect his ground water; that they have connected a travel trailer to the septic system; that he questioned what will happen when the hardship is no longer in effect; and that they submitted pictures.

Renee Morris was sworn in and testified in opposition to the application; that she strongly objects to the application; that the Applicant has poor upkeep of the property now; and that the Applicant's existing dwelling is large enough to accommodate the mother-in-law.

Janet McConaghy was sworn in and testified in opposition to the application; that she lives next door to the Applicant; that she is concerned about her property value; that the Applicant has 2 campers, 2 trucks, a trailer, and 2 dogs and ponies on the property.

In rebuttal, Michael Poff, stated that all the vehicles are tagged; that the older camper will be removed; that the camper is hooked up to his septic system and his nephew has stayed there a few nights; that the trailer is used for his occupation and to haul hay; that the dogs are penned in and properly cared for; that the neighbors dogs all run free through the neighborhood; and that the neighbors have used campers in their yards for weekend company.

Mr. Oates stated that the Applicant received a violation for the travel trailer and that the manufactured home will not be seen from the road.

By a show of hands, 4 parties appeared in favor of the application.

By a show of hands, 6 parties appeared in opposition to the application.

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

Case No. 8267 – Gemcraft Homes LLC – east of 274, corner of Cedar Valley Lane and Kingsville Boulevard, being Lot 32 within Cedar Valley Development.

A variance from the front yard setback requirement.

Mr. Oates presented the case. Peter Styles was sworn in and testified requesting a 3-inch variance from the required 20-foot front yard setback requirement; that the foundation is cultured stone; and that the variance should be for 2-foot.

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. Mills, and carried unanimously that the variance be **granted for 2-foot**. Vote carried 5 – 0.

Case No. 8268 – Charles T. Pratt – south of Route 23, east of Lakeside Circle, being Lot 2754 within Pot Nets Lakeside Mobile Home Park.

A variance from the side yard setback requirement; a variance from the maximum allowable lot coverage; and a variance from the separation requirement between units in a mobile home park.

Mr. Oates presented the case. Charles T. Pratt was sworn in and testified requesting a 4-foot variance from the required 10-foot side yard setback requirement, a 1.05% variance from the required 35% allowable lot coverage, and a 5-foot 10-inch variance from the required 20-foot separation requirement between units in a mobile home park for an addition; that the addition will measure 12' x 28'; that he has retired to the area; that the addition will create more living space; and that the community 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. Mills, seconded by Mr. Hudson, and carried unanimously that the variances be **granted**. Vote carried 5 – 0.

Case No. 8269 – Casey Sperry – south of Road 247, west of Road 261, being Lot 25 within Stamper Farms Development.

A variance from the front yard setback requirement.

Mr. Oates presented the case. Casey Sperry was sworn in and testified requesting a 2-foot variance from the required 40-foot front yard setback requirement for a covered porch; that she gave the surveyor the wrong measurements; that she forgot to include the 4-foot front porch; that the dwelling has been sold; and that the surveyor sent a letter to the office to explain the error.

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.

Case No. 8270 – Wayne A. Pepper – south of Route 18, 1,396 feet east of Road 527, being Lot 1.

A variance from the minimum lot width requirement for a parcel.

Mr. Oates presented the case. Harry Murphy was sworn in and testified requesting a 60-foot variance from the required 150-foot lot width requirement for a parcel; that a survey was done in 1980 and showed that Carl O'Day had built some buildings that encroached on the Mervine property; that in 1990 another survey was done and the buildings were forgotten; and that the proposed lot does not meet the required lot size requirement; that the lot size is 17,000-square-foot; and that the building on Carl O'Day's property does not meet the required setback requirements.

Robert E. Motley was sworn in and testified in opposition to the application; that he did not understand the letter he received in the mail; and that he was concerned that the area was going to be over developed.

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

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variance be **granted with the stipulation that the Applicant apply for a variance for lot size and the variance for the improvements on the O'Day property and that Lot 1 and the O'Day property share a driveway.** Vote carried 5 – 0.

OLD BUSINESS

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.

The Board discussed the case.

Motion by Mr. Hudson, seconded by Mr. Mills, and carried unanimously that the variance be **granted with stipulation that all signs be reduced to less than 7% of wall coverage.** Vote carried 5 – 0.

Meeting Adjourned 8:53 p.m.