

MINUTES OF AUGUST 4, 2003

The regular meeting of the Sussex County Board of Adjustment was held on Monday evening August 4, 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 as circulated. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of July 28, 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. 8271 – Steven Krebs – northeast of Road 382, 1,100 feet northwest of Road 384.

A variance from the maximum square footage for signs and a variance for additional wall and ground signs.

Mr. Oates presented the case. Steven Krebs was sworn in and testified requesting a 67-square-foot variance from the required 100-foot maximum square footage requirement for ground signs, a variance for 9 additional wall signs, and a variance for 8 additional ground signs; that the signs help describe everything that is available in the stores; that the banner signs on the fence will be removed during winter months; that the total square-footage for the ground signs is 111-square-foot; that the wall signs on Kreative Florist total 17-square-foot; that the wall signs on Kreative Gardens total 39-square-foot; that all signs meet the required setback requirements; and that he submitted pictures and a letter from the property owner 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 on all existing signs for this particular business and that no other future business at this location will be granted the same approval.** Vote carried 5 – 0.

Case No. 8272 – Casual Market Place – north of Route 9, ¼ mile east of road 281.

A special use exception for a tent for special purposes.

Mr. Oates presented the case. Harold W. Fleischut was sworn in and testified requesting a special use exception for a tent for special purposes; that in the summer months they showcase outdoor furniture; that they have made several improvements to the property; that the tent is in keeping with the entire décor; that a valance will be added and it will stay up all year; that the tent is anchored to the concrete floor; that the tent will be used from April through November; and that he submitted a portfolio.

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

Case No. 8273 – One Call Services Inc. – south of Route One 362.10 feet east of Route 9, being Lot 3, Block 1.

A variance from the minimum setback requirement for a sign.

Mr. Oates presented the case. David Stevenson was sworn in and testified requesting a 55-foot variance from the required 100-foot minimum setback requirement for a sign; that the property is zoned C1; that the sign will be 7' x 11'; that the sign will have direct lighting; and that the sign is his only form of advertisement.

Gail Salters was sworn in and testified in opposition to the application; that she is opposed to the lighting on the sign; that she owns the adjacent property and rents out the dwelling; and that she does not feel the light should be on all night.

In rebuttal, David Stevenson, stated that the lighting is enclosed and will shine directly on the sign; and that the lighting will be from 4-60 watt bulbs on each side.

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

Motion by Mr. McCabe, seconded by Mr. Workman, and carried unanimously that the variance be **granted with the stipulation that if the opposition still feels the lighting to be a disturbance once the sign is erected she is to contact the Planning & Zoning Department within 2 weeks, and the lighting will be turned off by 9:00 p.m. every night**. Vote carried 5 – 0.

Case No. 8274 – Donald L. Kefauver – southwest of Road 481, 860 feet northwest of Road 488, being Lot 9 within Thomas Horseshoe Development.

A variance from the side yard setback requirement.

Mr. Oates presented the case. Donald L. Kefauver was sworn in with Jim Yori, Attorney, on behalf of the application and testified requesting a 2.5-foot variance from the required 5-foot side yard setback requirement for a detached garage; that the detached garage has been on the property for over 18 years; that the neighbors are in favor of the application; and that they submitted a portfolio.

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. 8275 – Anthony and Mary Celani – east of Road 288, west of Amberwood Way, being Lot 57, Section A, within Chapel Green Development.

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

Mr. Oates presented the case. Anthony and Mary Celani was sworn in and testified requesting a 2-foot variance from the required 40-foot front yard setback requirement and a 23-foot variance from the required 40-foot front yard setback requirement for a through lot; that they purchased the lot in February 2003; that they obtained the building permit; that they were given the wrong setbacks on the permit; that the Association is in favor of the application; that the shed matches the dwelling; and that several 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. Hudson, and carried unanimously that the variances be **granted due to incorrect information on the building permit**.
Vote carried 5 – 0.

Case No. 8276 – Claudio Smarrelli – south of Route 18, 2,130 feet west of Road 290, being Lots 1, 2, and 3.

A special use exception to place an off-premise sign.

Mr. Oates presented the case. Darlene Matthes was sworn in and testified requesting a special use exception for a billboard; that the proposed billboard will be a 5

pole wooden structure; that they would like the billboard to be two-sided; and that the billboard will meet all required setbacks.

The Board asked the Applicant why they were not using a steel mono-pole structure and that the application states a request for a single-sided billboard.

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

Motion by Mr. McCabe to table this application, motion failed for lack of a second.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the special use exception be **denied**. Vote carried 4 – 1.

Case No. 8277 – Byrum Farms LLC – southwest of Road 382, 600 feet southeast of Road 392.

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

Mr. Oates presented the case. Carol W. Breasure was sworn in and testified requesting a 100-foot variance from the required 150-foot lot width requirement and a 31-foot variance from the required 150-foot lot width requirement ; that he purchased the property in 2002; that they want to subdivide the parcel so his daughter can build a dwelling; that his in-laws live in the existing dwelling; and that the chicken house has been removed.

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. Workman, and carried unanimously that the variances be **granted**. Vote carried 5 – 0.

Case No. 8278 – Denise Walstead – east of Route 5, north of Road 234B.

A variance from the side yard setback requirement.

Mr. Oates presented the case. Denise Walstead was sworn in and testified requesting a 8.37-foot variance from the required 10-foot side yard setback requirement for a manufactured home; that she is replacing an existing single-wide unit with a double-wide unit; and that the neighbor 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. Mills, seconded by Mr. Hudson, and carried unanimously that the variance be **granted for 8.3-foot**. Vote carried 5 – 0.

Case No. 8279 – William F. and Mercedes Lenno – north of Road 368 and west of Water Mill Lane, 176 feet south of William Chandler Boulevard, being Lot 125 within Southampton Development.

A variance from the side yard setback requirement.

Mr. Oates presented the case. William Lenno was sworn in and testified requesting a 5-foot variance from the required 10-foot side yard setback requirement for a proposed 6' x 8' shed; that the shed will be placed next to the dwelling; that the permit department made him aware of the setbacks; and that the neighbors and the Homeowner's Association 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. Workman, and carried unanimously that the case be **tabled until August 18, 2003**. Vote carried 5 – 0.

Case No. 8280 – Atlantic Contracting & Materials Co. Inc. – east of Road 318, 366 feet north of Road 432.

A variance from the side yard setback requirement.

Mr. Oates presented the case. John Madden was sworn in with Dean Campbell, Attorney, on behalf of the application, and testified requesting a 2.9-foot variance from the required 5-foot side yard setback requirement for a detached garage; that a new survey showed the detached garage to be over the property line; that the Applicant purchased a portion of his neighbors property to help correct the problem; that the location of the detached garage is in line with the existing driveway; and that they submitted surveys.

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. 8281 – Louis Szeliga – southwest of Route 54, west of Grant Avenue, being Lot 46 within Cape Windsor Development.

A variance from the side yard setback requirement.

Mr. Oates presented the case. Louis Szeliga was sworn in and testified requesting a 5-foot variance from the required 10-foot side yard setback requirement; that he is tearing down the existing dwelling; that he is seeking a variance to build a detached carport on the same footprint as the existing carport; that the dwelling will meet all required setbacks; 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. Hudson, and carried unanimously that the variance be **granted**. Vote carried 5 – 0.

Case No. 8282 – P & A Company, Inc. – east of U.S. Route 13, 2,050 feet south of Road 454.

A special use exception to retain a manufactured home type structure as an office.

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. 8283 – Alfred and Dolores Hubert – northwest of Road 351, east of Holly Wood Drive, being Lot 5, Block D, within Land of Pleasant Living Development.

A variance from the front yard setback requirement.

Mr. Oates presented the case. Alfred Hubert was sworn in and testified requesting a 2-foot variance from the required 30-foot front yard setback requirement; that the existing septic system prevents him from building the garage further back on the property; and that to maintain the desired size and location of the proposed garage he is seeking an approval from 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. Hudson, and carried unanimously that the variance be **granted**. Vote carried 5 – 0.

Case No. 8284 – Inell and Nellie P. Alexander – south of Road 227, 2,050 feet east of Route 16.

A special use exception to determine existence of non-conforming use.

Mr. Oates presented the case. Nellie Alexander and Danny Harris were sworn in and testified requesting a special use exception to determine the existence of a non-conforming use; that there are 3 manufactured homes on one parcel; that there is one manufactured home and a dwelling on another parcel; that they purchased the property in 1976; that the previous owner is deceased; and that they have no paperwork to submit to the Board.

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 case be **left open to allow the Applicant to provide proof of placement**.
Vote carried 5 – 0.

Case No. 8285 – Marie D. Neeman – south of Route 22, west of West River Road, being Lot 59 within White House Beach Mobile Home Park.

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

Mr. Oates presented the case. Lloyd W. Oakley was sworn in and testified requesting a 2-foot variance from the required 20-foot separation requirement between units in a mobile home park; that the shed measures 10' x 10'; that the shed is replacing an existing shed; that to move the shed into compliance will block an existing entrance; and that he submitted pictures.

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 variance be **granted**. 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.

The Board discussed the case.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variances be **granted for 3.3-foot variance from the south side setback requirement and a 7.6-foot variance between units in a mobile home park.** 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.

The Board discussed the case.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variance be **granted for a 26.1-foot variance from the front yard setback requirement for the 1-story dwelling and a 21.6-foot variance from the required front yard setback requirement for the 2-story dwelling.** 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.

The Board discussed the case.

Motion by Mr. Workman, seconded by Mr. McCabe, and carried unanimously that the special use exception be **granted with the stipulation that the manufactured home be placed in the rear of the property.** Vote carried 5 – 0.

Meeting Adjourned 9:07 p.m.