

MINUTES OF AUGUST 5, 2002

The regular meeting of the Sussex County Board of Adjustment was held Monday evening August 5, 2002, 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. Wheatley, Mr. Mills 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. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of July 15, 2002 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. 7882 – Pin Tail Partners – west of Pintail Road, Lot 16, within North Shores Subdivision.

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

Mr. Oates presented the case. Harry Wooding was sworn in and testified requesting a 2-foot variance from the required 30-foot north east side yard setback requirement for an existing deck and a 16.5-foot variance from the required 30-foot south west side yard setback for an existing dwelling and a 6.3-foot variance from the required 15-foot north side yard setback requirement for an existing deck; that the existing dwelling has been on the lot since the 1970's; that the violation was found after a survey was done at settlement; and that variances have been granted in the past for the surrounding properties.

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

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

Case No. 7883 – Michael and Margaret Dinenna – east of East Stoney Run, Lot 67, within Keenwick Sound Subdivision.

A variance from the rear yard setback requirement.

Mr. Oates presented the case. Michael Dinenna was sworn in and testified requesting 2-foot variance from the required 10-foot rear yard setback requirement for an existing deck; that he wants to enclose the existing deck to create a screen porch; that the Association approves of the proposed addition and made him aware of the encroachment; and that the roof will have less than a 2-foot overhang.

Mr. Oates read a letter from Mary and Tom O'Neill in opposition of the application.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the case be **tabled until August 19, 2002**. Vote carried 5 – 0.

Case No. 7884 – John M. Carney – west of Road 274, west side of Penhurst Court, Lot 43, within Villages of Old Landing Subdivision.

A variance from the north side yard setback requirement.

Mr. Oates presented the case. John M. Carney was sworn in and testified requesting a 5.2-foot variance from the required 10-foot side yard setback requirement for an existing deck; that the deck was built in 2000 and that a 2001 survey showed the violation; that he submitted a picture; and that the deck is 37-feet from the neighbors dwelling.

By a show of hands, 5 parties were in favor of the application.

Mr. Oates read a letter from Fred DeRegatis 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 **tabled until August 19, 2002**. Vote carried 5 – 0.

Case No. 7885 – Howard Halliday – south of Road 368, intersection of Austin Lane and Midland Road, Lot 7, within Summerset Subdivision.

A variance from the maximum height requirement for a fence.

Mr. Oates presented the case. Howard Halliday was sworn in and testified requesting a 2.5-foot variance from the required 3.5-foot height requirement for a fence; that he would like to build a 6-foot fence to screen in an existing outside shower, heat pump, and to store garden supplies; that the fence will only extend 9-feet from the

existing garage; that it will not impair the view from the road due to the fact that the existing road is a dead end; and that he submitted pictures.

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

The Board found that no one 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. 7886 – Jerry and Della Rott – north of Route 54, southwest side of Blue Teal Road, Lot 42, within Swann Keys Subdivision.

A variance from the northwest side yard setback requirement.

Mr. Oates presented the case. Jerry Rott was sworn in and testified requesting a 2.9-foot variance from the required 10-foot northwest side yard setback requirement for a proposed screen porch; that the manufactured home has been on the lot for 22 years; that the proposed screen porch will be 16'x12' and will meet the required rear yard setback requirement; and that the Association approves of the proposed screen porch.

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

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

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

Case No. 7887 John and Fredonia Maple – northeast of Road 88, 308 feet southeast of Road 257.

A variance from the minimum lot width requirement.

Mr. Oates presented the case. Fredonia Maple was sworn in and testified requesting a 23-foot variance instead of a 13.5-foot variance from the required 150-foot lot width requirement; that she would like to create a second parcel to have a caregiver nearby when help is needed; that the parcel has met site approvals for well and septic permits; and that there would be no problem with sharing a driveway.

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 variance be **granted with the stipulation that a driveway is to be shared**.
Vote carried 5 – 0.

Case No. 7888 – Kent Schoch – north side of First Street, Units 31 and 32, within Bay Vista Subdivision.

A variance from the front yard setback requirement.

Mr. Oates presented the case. Kent Schoch was sworn in and testified requesting 6-foot variance from the required 30-foot front yard setback requirement for a proposed dwelling; that the neighbor's dwelling has the same variance approved; that he is requesting the same variance to save his view of the street; that another dwelling on the same street is 27-foot from the front property line; and that he submitted a drawing showing how his view of the street would be inhibited.

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 **tabled until August 19, 2002**. Vote carried 5 – 0.

Case No. 7889 – David R. Reynolds – Road 277, west side of Bridgeway Drive East, Lot 12, Block V, Section 5, within Angola By The Bay Subdivision.

A variance from the northeast side yard setback requirement.

Mr. Oates presented the case. David R. Reynolds was sworn in and testified requesting a 1-foot variance from the required 10-foot north east side yard requirement; that the dwelling was built in 1981; that a variance was granted for the rear yard setback requirement last year; and that the survey showed the violation.

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

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

Case No. 7890 – Marvin E. and Jane M. Long – east of Road 381, northeast side of Derrickson Drive, Lot 38, within Magnolia Shores Subdivision.

A variance from the side yard setback requirement.

Mr. Oates presented the case. Marvin Long, R.B. Kemp, and Charlie Trivits were sworn in and testified requesting a 1.7-foot variance from the required 15-foot side yard setback requirement; that the owner changed the original plans of the dwelling by increasing the length by 2-feet; that the property was staked using the original plan and the masons caught the error and laid the extra 2-feet; and that the error was never noticed again until after the final placement survey was done.

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

Case No. 7891 – Double J Properties LLC – southeast of Route 24, 1,005 feet southwest of Route One and southeast side of private road.

A variance from the maximum height requirement for a structure.

Mr. Oates presented the case. David Robinson was sworn in and testified requesting a 8-foot variance from the required 42-foot height requirement for a proposed cupola on a eye care center; that 9 doctors who specialize in eye care will practice in the building; that the 2 story building will be 21,000-square feet in size; that he submitted a drawing; and that the cupola is for decorative purposes only.

By a show of hands, 2 parties were 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 variance be **granted**. Vote carried 5 – 0.

Case No. 7892 – Lawrence R. Katz – east of Route One, west side of South Ocean Way, Lot 15, within Seabreak Subdivision.

A variance from the west side yard setback requirement.

Mr. Oates presented the case. Lawrence R. Katz was sworn in and testified requesting a 3.75-foot variance from the required 30-foot front yard setback requirement; that he would like to enclose an existing carport and extend it to 17'11"x12'5" to create a garage to house a mid-size car; that the house was built in 1986; and that a variance was granted in 1997 on the same house for an existing overhang.

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

The Board found that no parties appeared 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. 7893 – Elizabeth R. Toland – east of Route 54, east side of Tyler Avenue, Lot 20, within Cape Windsor Subdivision.

A variance from the west side yard setback requirement.

Mr. Oates presented the case. Elizabeth R. Toland was sworn in and testified requesting a 4.3-foot variance from the required 10-foot west side yard setback requirement; that she wishes to replace an existing 28'x64' manufactured home with another one of the same size; that the Association approves of the replacement; and that several variances have been granted in the Subdivision.

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

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

Case No. 7894 – Dale J. Gray, Jr. – west of Road 432, 2,200 feet south of Road 322, Lot 2.

A variance from the minimum lot width requirement.

Mr. Oates presented the case. Dale J. Gray, Jr. was sworn in and testified requesting a 50-foot variance from the required 150-foot lot width requirement; that he would like to subdivide the land for 2 grandsons to be able to live nearby; that he submitted a survey; and that sharing a driveway would be no problem.

By a show of hands, 6 parties were in favor of the application.

The Board found that no parties were in opposition to the application.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the case be **tabled until August 19, 2002**. Vote carried 5 – 0.

Case No. 7895 – Joseph Murray and Suzanne Campbell – north of Route 54, north side of Canvasback Road, Lot 82, within Swann Keys Subdivision.

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

Mr. Oates presented the case. Joseph Murray was sworn in and testified requesting a 4-foot variance from the required 10-foot north side yard setback requirement for an existing deck and a 3-foot variance from the required 10-foot rear yard setback requirement for an existing deck; that he measured from the outside of the existing bulkhead creating the encroachment; that he had some confusion as to what the setback was to be; and that variances have been granted in the area.

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. 7896 – Hudson & Reed, LLC – north of Road 277, 80 feet west of Road 278, within Bay Ridge Woods Subdivision.

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

Mr. Oates presented the case. Littleton Dryden, Jr. and Steve Cook was sworn in and testified requesting a special use exception to place a 12'x72' manufactured home for use as a sales office; that they will use the unit for sales until the model homes are built; and that the unit will be removed as soon as it is no longer needed.

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

Motion by Mr. Wheatley, seconded by Mr. Mills, and carried unanimously that the special use exception be **granted for a period of 1 and a half years**.
Vote carried 5 – 0.

OLD BUSINESS

Case No. 7871 – Edward and Dorothy Quinn – east of Road 270-A, north side of Beaver Dam Reach, Lot 15, within The Woods at Seaside Subdivision, Phase I.

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

The Board discussed the case.

Motion by Mr. Mills, seconded by Mr. Wheatley, and carried unanimously that the case be **tabled until August 19, 2002**. Vote carried 5 – 0.

Case No. 7876 – Beach Urgi Care Centers – southwest of Route One, 100 feet west of Washington Street.

A variance for two (2) additional wall signs.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variance be **granted with the stipulation that there will be no lighting on the rear wall sign and that the lights on the front wall sign may only be on until 9:00 p.m.**

Meeting Adjourned 8:43 p.m.