

MINUTES OF AUGUST 18, 2003

The regular meeting of the Sussex County Board of Adjustment was held Monday evening August 18, 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 with the addition of Case No. 8293, New Covenant Presbyterian Church, Case No. 7883, Michael and Margaret Dinenna, Case No. 8282, P & A Company, Inc., and Case No. 8284, Inell and Nellie Alexander under Old Business. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, to approve the Minutes of August 4, 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. 8286 – Jeffery and Desiree Boonin – east of Road 348, south of Deer Court, being Lot 30 within Bay Colony Development.

A variance from the front yard setback requirement.

Mr. Oates presented the case. Jeff Boonin and Bill Cooper were sworn in and testified requesting a 0.4-inch variance from the required 30-foot front yard setback requirement; that the surveyor marked the property for the dwelling; that after the dwelling was built and a second survey was completed by the same surveyor the error was discovered; and that they have signatures of approval from the neighbors.

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. 8287 – Shelley Wright – north of Road 388, 232 feet east of Road 390A.

A special use exception for a riding academy.

Mr. Oates presented the case. Shelley Wright was sworn in and testified requesting a special use exception for a riding academy; that she proposes to build a

dwelling with an attached stable; that the parcel contains 5-acres; that she will board horses and teach equestrian skills; and that one property adjacent to hers is vacant and the other has a poultry house.

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 for a period of 5 years**. Vote carried 5 – 0.

Case No. 8288 – Gerald Moore – north of Route 20, west of Spruce Road, being Lots 101 and 102 within Nanticoke Acres Development.

A variance from the side yard setback requirement.

Mr. Oates presented the case. Gerald Moore was sworn in and testified requesting a 7-foot variance from the required 15-foot side yard setback requirement for a proposed detached garage; that the garage will measure 24' x 24'; and that he wants to leave a walkway between his existing dwelling and the proposed detached garage.

Mr. Mills stated that the variance is not required due to the size of the proposed garage.

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 variance be **denied since the variance was not necessary**. Vote carried 5 – 0.

Case No. 8289 – Kenneth J. and Janice M. Arney – north of Route 18, 625 feet west of Road 546.

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

Mr. Oates presented the case. Kenneth Arney and Greg Sizemore were sworn in and testified requesting a 13.25-foot variance from the required 150-foot lot width requirement for a parcel; that he wants to subdivide this portion of the existing farm due to the fact that its irregular shape makes it difficult to till; that there is an old barn on the portion of property that he wants to sell with the new parcel; and that they submitted surveys and pictures.

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

Case No. 8290 – 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. Lawrence Odette was sworn in with John Tartburton, Attorney, on behalf of the application, and testified requesting a 1.9-foot variance from the required 10-foot side yard setback requirement; that the neighbors home is right on or possibly over the property line; that he believed the property to be within the town limits of Bethany Beach; that the town setback requirement is 7-foot from the side yard setback; that the roof over the steps creates protection from the weather; that his dwelling and the neighbors dwelling were built in the 60's; that the builder obtained the building permit; that the permit showed the required setbacks; that the encroachment does not alter the character of the neighborhood; and that his neighbors are in favor of the application.

Mr. Oates stated that the office received, 6 letters 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. Mills, and carried unanimously that the variance be **granted with a letter sent to the builder**. Vote carried 5 – 0.

Case No. 8291 – Candy Kitchen Shoppes, Inc. – east of Route One, corner intersection south of Delaware Avenue, being Lots 16, 18, and 20 within L. P. Faucett, Inc. Development.

A variance from the front yard setback requirement.

Mr. Oates presented the case. Larry Sawyer was sworn in and testified requesting a 37-foot variance from the required 60-foot front yard setback requirement; that when he applied for his building permit it was brought to his attention that the canopy would not meet the County setback requirement; that the existing canopy extends 7-foot from the side of the building; that the new canopy will only extend 3-foot from the side of the

building; that the existing canopy also extends over the property line on the side of the building; and that the new canopy will be just inside the property line by 2-inches.

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 for the front yard setback, that the Applicant must apply for a variance from the side yard setback requirement and that the fee for the second application will be waived.** Vote carried 5 – 0.

Case No. 8292 – Don and Rebecca Gonzales – south of Road 395, north side of Gull Road, being Lot 13 within Bayview Estates Development.

A variance from the side yard setback requirement.

Mr. Oates presented the case. Dennis Sirman and Don Gonzales were sworn in and testified requesting a 1-foot variance from the required 10-foot side yard setback requirement for a proposed screen porch; that the realtor led them to believe that there was an 8-foot setback requirement; that they applied for the variance as soon as they found out it was a 10-foot setback requirement; and that the 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. McCabe, seconded by Mr. Mills, and carried unanimously that the variance be **granted.** Vote carried 5 – 0.

Case No. 8293 – New Covenant Presbyterian Church – northeast of Route One, 452 feet west of Road 268A.

A special use exception for an off-premise sign.

This case has been withdrawn.

Case No. 8294 – Thomas and Rosalie Hitchens – south of Road 277, west of Ashwood Drive, being Lot 27 and ½ Lot 26 within Angola By The Bay Development.

A variance from the front yard setback requirement.

Mr. Oates presented the case. Bob Hitchens and Tom Hitchens were sworn in and testified requesting a 5-foot variance from the required 30-foot front yard setback requirement; that due to the arc in the property line it creates a hardship to meet the required setback; and that the Homeowner's Association approves the application.

By a show of hands, 1 party appeared in favor 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. 8295 – Country Life Homes, Inc. – west of Road 258, 1,428 feet north of Road 88, being Lot 1 within River Rock Run Development.

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

Mr. Oates presented the case. Maurice Faulkner was sworn in and testified requesting a special use exception to place a manufactured home type structure for a sales office; that the unit will measure 12' x 50'; that the site will have ample parking and be landscaped; and that the sales office will be moved into a model home after 18 months.

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 special use exception be **granted for a period of 18 months**. Vote carried 5 – 0.

Case No. 8296 – Thomas J. and Mary E. Tully – south of Route 22, Pontoon Drive, being Lot M-14 within Pot Nets Bayside Mobile Home Park.

A variance from the maximum allowable lot coverage in a mobile home park.

Mr. Oates presented the case. Thomas Tully was sworn in and testified requesting a 1.9% variance from the required 35% lot coverage requirement for a proposed addition; that he wants to increase the size of the existing porch; and that the variance will not alter the character of the neighborhood.

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. 8297 – Thomas and Margaret Davis – south of Route 54, southwest of Bluewater Run West, being Lot 269 within Keenwick Sound Development.

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

Mr. Oates presented the case. Thomas Davis was sworn in and testified requesting a 4-foot variance from the required 5-foot side yard setback requirement and a 4-foot variance from the required 5-foot rear yard setback requirement for a proposed shed; that the shed will measure 10' x 10'; that the well location prevents him from placing the shed in compliance with the required setbacks; that the neighbors have had similar variances granted; 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. Mills, and carried unanimously that the variances be **granted**. Vote carried 5 – 0.

Case No. 8298 – Robert and Doloras Cropper – west of Road 278, Clover Street, being Lot G10 within Angola Beach Mobile Home Park.

A variance from the side yard setback requirement.

Mr. Oates presented the case. Robert Cropper was sworn in and testified requesting a 5-foot variance from the required 5-foot side yard setback requirement for a shed; that the shed will measure 12' x 20'; that he needs the shed for storage since he is moving from a larger dwelling; and that the park 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**. Vote carried 5 – 0.

Case No. 8299 – Charles and Loretta Evans – south of Route 22, Breaker's, being Lot E-741 within Pot Nets Bayside Mobile Home Park.

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

Mr. Oates presented the case. Richard DeWitt was sworn in and testified requesting a 3.8-foot variance from the required 10-foot side yard setback requirement and a 2.3-foot variance from the required 20-foot requirement between units for a proposed deck; that the deck will measure 10' x 20'; that the manufactured home is on an angle which creates the need for a variance; that the deck will be 31 ½ -inches high; and that numerous variance have been granted in the park.

Mr. Mills stated that the variance request for the side yard setback requirement was not needed.

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 **denied for the side yard setback requirement and that the variance for the 20-foot requirement between units be granted**. Vote carried 5 – 0.

Case No. 8300 – Baron and Nancy Fry – north of Route 22, Approach Way, being Lot 3293 within Baywoods Mobile Home Park.

A variance from the rear yard setback requirement.

Mr. Oates presented the case. Baron and Nancy Fry were sworn in and testified requesting a 0.7-foot variance from the required 10-foot rear yard setback requirement; that the screen porch was built; and that after the porch was completed the violation was discovered; and the builder obtained the building permit.

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. 8301 – Albert E. Brewington, Jr. – north of Road 326, 300 feet east of Road 82.

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

No one appeared on behalf of the application.

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

OLD BUSINESS

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.

The Board discussed the case.

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

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

A variance from the rear yard setback requirement.

Mr. Oates read a letter requesting an extension.

The Board discussed the case.

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

Mr. Oates read a letter requesting permission to re-apply.

The Board discussed the case.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the request be **granted to re-apply and to pay the fee again**. 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 stated that the office has received new information from the applicant.

The Board discussed the case.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be **tabled until September 8, 2003**. Vote carried 5 – 0.

Meeting adjourned 8:36 p.m.