

MINUTES OF AUGUST 25, 2003

A special meeting of the Sussex County Board of Adjustment was held Monday evening August 25, 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 and Mrs. Heffelfinger – Zoning Inspectors, and Mrs. Norwood – Recording Secretary.

Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously to approve the Agenda with the addition of Case No. 8301 – Albert E. Brewington, Jr. under Other Business. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of August, 18, 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. 8302 – James Sarver and Sandra Campbell – northeast of Route 16, southeast corner of Florida Avenue and Bay Shore Drive, being Lots 14 and 15, Block H, Section 2 within North Shores Development.

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

Mr. Oates presented the case. James Sarver and Sandra Campbell were sworn in and testified requesting a 7-foot variance from the required 30-foot front yard setback requirement and a 1.9-foot variance from the required 15-foot side yard setback requirement for a proposed sunroom; that the addition will measure 12' x 15'; that they obtained a building permit; and that they submitted letters from neighbors in favor of the application.

By a show of hands, 10 parties 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 variances be **granted**. Vote carried 5 – 0.

Case No. 8303 – Robert P. Morris and Christine L. Giera – east of Route 22, west of New Moon Street, being Lot C-6 within Leisure Point Mobile Home Park.

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

Mr. Oates presented the case. Robert Morris and Christine Giera were sworn in and testified requesting a 1.2-foot variance from the required 20-foot separation between units in a mobile home park; that they built an addition on the unit; that they obtained a building permit; and that the park 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. McCabe, and carried unanimously that the case be **left open to allow the Applicant to provide a drawing of the improvements and distances on the lot**. Vote carried 5 – 0.

Case No. 8304 – Daniel and Nila Grose – east of Road 390A, west of Appaloosa Drive, being Lot 40 within El Rancho Development.

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

Mr. Oates presented the case. Daniel and Nila Grose were sworn in and testified requesting a 25-foot variance from the required 30-foot front yard setback requirement for 2 sheds and a carport; that they received a violation notice from the Planning and Zoning Department; that they plan to move 1 shed to comply with the required setbacks; that exhibit “A” shows the desired plan for both structures; and that they submitted pictures.

Mr. Oates stated that a petition with 24 signatures in favor of the application was submitted to the office.

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

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variance be **granted for 25-foot variance for the 12’ x 20’ shed and the 20’ x 24’ carport and a 5-foot variance for the 10’ x 12’ shed**. Vote carried 5 – 0.

Case No. 8305 – Perry and Kathryn Townsend – north of Road 353, 551 feet west of Road 17.

A special use exception to combine two (2) manufactured homes to make one (1) unit.

Mr. Oates presented the case. Perry and Kathryn Townsend were sworn in and testified requesting a special use exception to combine two (2) manufactured homes to make one (1) unit; that both units are currently on the property; that the units are now connected with a deck; that the permit department issued a building permit for an addition; that the permit department knew it was a manufactured home; that the 1978 unit measures 14' x 70' and has been on the lot for 17 years; that the 1974 unit measures 24' x 44' and has been on the lot for 2 years; that they want to enclose the deck and connect the two units; that they will remove one (1) kitchen; and that the completed project will be an H-shape.

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 case be **tabled until September 8, 2003**. Vote carried 5 – 0.

Case No. 8306 – Geraldine E. and Rodney E. Wilson, Sr. – northwest of Road 249, 616.20 feet north of Road 253.

A special use exception to operate a commercial dog kennel and a variance from the setback requirements for a commercial dog kennel.

Mr. Oates presented the case. Geraldine Wilson was sworn in and testified requesting a special use exception for a dog kennel; that her son keeps his hunting dogs on her property; that he has 13 dogs; that he does not breed the dogs; and that her brother and son own the adjacent properties.

The Board requested a drawing showing the distances from property lines for the kennel.

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 until September 8, 2003 to allow the Applicant to bring the requested drawing**. Vote carried 5 – 0.

Case No. 8307 – Thomas and Eileen Depalma – east of Road 302A, 3,194.98 feet south of Road 47, being Lot C.

A variance from the side yard setback requirement.

Mr. Oates presented the case. Thomas and Eileen Depalma were sworn in and testified requesting a 4.5-foot variance from the required 15-side yard setback requirement for a dwelling; that the builder obtained the building permit; that a Certificate of Compliance was issued by the Planning and Zoning Department; that they are selling the property; that the survey showed the violation; and that they could provide the name and address of the builder.

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 and that a letter be sent to the builder**. Vote carried 5 – 0.

Case No. 8308 – Paul and Laura Hudson – northeast of Road 318, 590 feet northwest of Road 432.

A variance from the side yard setback requirement.

Mr. Oates presented the case. Paul and Laura Hudson and Chip Sorello were sworn in and testified requesting a 0.6-foot variance from the required 15-foot side yard requirement; that the manufactured home was placed by Luv Homes; that Luv Homes made an error when measuring for the placement; that the unit could not be placed anywhere else due to a major slope on the property; and that the neighbors are 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. McCabe, and carried unanimously that the case be taken under advisement. Vote carried 5 – 0.

At the conclusion of the public hearings, the Chairman referred back to this case. Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variance be **granted**. Vote carried 5 – 0.

Case No. 8309 – Dr. Bruce Wright (Maplewood Dental Assoc.) – north of Route 24, west of Bryn, being Lots 1 and 2 within Maplewood Development.

A variance from the rear yard setback requirement.

Mr. Oates presented the case. Dr. Bruce Wright was sworn in and testified requesting a 6-foot variance from the required 30-foot ~~front~~ yard setback requirement; that he wants to enlarge the treatment area in his dentists office; that his son has joined the practice; that the building was built in 1985; and that a previous variance was granted on this property.

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

Case No. 8310 – Leonard Wisowaty – south of Route 54, east of Tyler Avenue, being Lot 19 within Cape Windsor Development.

A variance from the side yard setback requirement.

Mr. Oates presented the case. Leonard Wisowaty was sworn in and testified requesting a 2.2-foot variance from the required 5-foot side yard setback requirement for a shed; that the existing shed is in poor condition; that the new shed will be the same distance from the property line as the existing shed; that the new shed will measure 10' x 19'; that the Homeowner's Association is in favor of the application; and that the neighbors are in favor of the application.

Mr. Oates stated that numerous variances have been granted in the subdivision.

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. Hudson, and carried unanimously that the variance be **granted**. Vote carried 5 – 0.

Case No. 8311 – Dallas and Patricia Eltz – northeast of Route 22, west of Pine Street, being lot 76 within Bay City Mobile Home Park.

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

Mr. Oates presented the case. Dallas and Patricia Eltz were sworn in and testified requesting a 4.5-foot variance from the required 5-foot side yard setback requirement and a 4.5-foot variance from the required 5-foot rear yard setback requirement; that they want

to replace an existing shed; that they wish to place it closer to the property line to preserve the view of the Bay for their neighbors; and that all the sheds in the park are set in the corner of the lots.

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.

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. 8312 – George and Sandra Sahutsky – north of Road 312, 1,200 feet west of Road 331, being Lot 26, Block C within Warwick Park Development.

A variance from the side yard setback requirement.

Mr. Oates presented the case. George and Sandra Sahutsky were sworn in and testified requesting a 2.5-foot variance from the required 15-foot side yard setback requirement for a proposed attached garage; that the proposed garage will measure 20' x 24'; that they spoke with the Board of Directors of the Homeowner's Association, and the Architectural Review Board and that they suggested that they apply to the Board of Adjustment; that he did not know they would be opposed to the application; that the neighbors adjacent to his property are in favor of the application; and that they submitted surveys.

Carol Zander was sworn in and testified in opposition to the application; that she is representing the Homeowner's Association; that covenants for the development use the same setback requirements as the County; and that they don't want this application to set a precedent.

In rebuttal, George Sahutsky, stated that the Architectural Review Board has not approved or denied the proposed garage; that the Board suggested that he should apply for the variance.

Mr. Mills stated that a detached garage of this size could be built closer to the property line.

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

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

Mr. Oates stated that the office received 23 letters in favor of the application and 4 letters in opposition to the application.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the case be taken under advisement. Vote carried 5 – 0.

At the conclusion of the public hearings, the Chairman referred back to this case. Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variance be **granted due to the fact that a detached garage can be built closer to the property line than the requested variance.** Vote carried 5 – 0.

Case No. 8313 – Shirley and Ronald Carey, Sr. – south of Route 16, 320 feet north of Willow Street, being Lots 81 and through Lot 84.

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

Mr. Oates presented the case. Shirley and Ronald Carey, Sr. were sworn in and testified requesting a 1,000-square-foot variance from the required 10,000-square-foot for minimum lot size requirement; that they want to subdivide and convey a portion of the property to their son; that the pool house has been removed; that the existing dwelling has been granted a variance; that the Town of Ellendale has no objection to the application; and that they submitted a survey.

Peter John Duda, was sworn in and testified in opposition to the application; that he is not in opposition to this case but objects to the fact that they voted in favor of the previous case and don't live in the immediate area; and that it is an injustice to allow voting from people not effected by an individual hearing.

By a show of hands, 4 parties 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. 8314 – Marcus O. Johns – intersection of Route 36 and Road 629, being Lots 3 through 7 within James P. Mayhew Development.

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

Mr. Oates presented the case. Marcus O. Johns was sworn in and testified requesting a 10-foot variance from the required 40-foot front yard setback requirement for a detached garage; that the detached garage will measure 28' x 28'; that he has an irregular shaped lot; and that his neighbors are in favor of the application.

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

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the case be **left open to allow the Applicant to decide exactly how much of a variance he needs**. Vote carried 5 – 0.

Case No. 8315 – Douglas and Ada Hazzard Hobbs – east of Road 83, 200 feet west of U. S. Route 13.

A variance from the minimum square footage requirement for placement of a multisectional manufactured home.

Mr. Oates presented the case. Douglas and Ada Hazzard Hobbs were sworn in and testified requesting a 17,040-square-foot variance from the required 32,670-square-foot minimum lot size requirement for placement of a multisectional manufactured home; that the property was a gift; that they want to purchase a new manufactured home to place on the lot; that the manufactured home company made them aware that they would need to apply for a variance; that there are other manufactured homes in the area; and that the unit would be placed on a block foundation.

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. Mills, seconded by Mr. Hudson, and carried unanimously that the case be taken under advisement. Vote carried 5 – 0.

At the conclusion of the public hearings, the Chairman referred back to this case. Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variance be **granted strictly on the uniqueness of the case and that there are other manufactured homes in the area**. Vote carried 5 – 0.

Case No. 8316 – Richard and Elaine Sharp – south of Route 88, west of South Aquarius Way, being Lot 31 within Cave Colony Development.

A variance from the side yard setback requirement.

Mr. Oates presented the case. Richard and Elaine Sharp and Debbie Worley and Ernest Perelli were sworn in and testified requesting a 2-foot variance from the 15-foot side yard setback requirement; that the detached garage was built in 1997; that they received a certificate of compliance; and that the survey done for settlement showed the encroachment.

By a show of hands, 7 parties 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 due to the fact the certificate of occupancy was issued.**
Vote carried 5 – 0.

OTHER BUSINESS

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.

Mr. Oates read a letter asking permission to re-apply due to an emergency.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the Applicant be **allowed to re-apply and that the applicant will have to pay the additional fee.** Vote carried 5 – 0.

Meeting Adjourned 9:00 p.m.