

MINUTES OF SEPTEMBER 22, 2003

The regular meeting of the Sussex County Board of Adjustment was held Monday evening September 22, 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, Mrs. Heffelfinger – Zoning Inspector, Mr. Rickard – Secretary to the Board, and Mrs. Norwood – Recording Secretary.

Motion by Mr. Mills, seconded by Mr. McCabe, 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 September 8, 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. 8332 – Kevin Shaffer and Julie Houston – east of Road 390A, west of Appaloosa Drive, being Lot 36 within El Rancho Roxana Development.

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

Mr. Rickard presented the case. Kevin Shaffer and Julie Houston were sworn in and testified requesting a 34-foot variance from the required 40-foot front yard setback requirement for a through lot; that they purchased the property June 2000; that the sheds existed at the time of purchase; that he is prepared to move the shed 4-foot to get the shed off the property line; that they submitted a drawing, pictures and 2-letters in support of the application; and that there have been other variances granted within the neighborhood.

Nila Grose was sworn in and testified in support of the application; that her name was mentioned in the letter of opposition; that she recently was approved for a similar variance request; and that she did not want to go on record as a party in opposition to the application.

By a show of hands, 3 parties appeared in support of the application.

Mr. Rickard stated that the office received the above mentioned letter of opposition.

Mr. Berl stated that the letter could not be considered by the Board due to the testimony of Ms. Grose.

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

Case No. 8333 – Aqua Leisure – west of Road 270, 425 feet north of Route One.

A special use exception for a tent for special purposes.

Mr. Rickard presented the case. Daniel Brennan was sworn in and testified requesting a special use exception for a tent for a period of five (5) years; that he recently purchased the business; that the canopy type structure is being used to help attract customers; that it is anchored to the side of the building; that previous variances have been approved for the signs; and that he plans to make improvements to the existing building.

By a show of hands, 3 parties appeared in support 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 special use exception be **granted for a period of five (5) years**. Vote carried 5 – 0.

Case No. 8334 – Raymond R. and Jane E. Williams – south of Route One, Magnolia Drive, being Lot 5 within Pine Valley Mobile Home Park.

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

Mr. Rickard presented the case. Raymond and Jane Williams were sworn in and testified requesting a 1-foot variance from the 10-foot rear yard setback requirement and a 10-foot variance from the required 20-foot separation requirement between units in a mobile home park on both sides for a proposed manufactured home; that they wish to replace an existing 1967 unit with a 14' x 76', 1998 unit; that they want a larger unit for their growing family; and that they have not yet replaced the unit.

By a show of hands, 4 parties appeared in support 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 variances be **granted for a 1-foot front yard variance, a 9-foot variance on the left side and a 10-foot variance on the right side**. Vote carried 5 – 0.

Case No. 8335 – Ronald E. Finelli – north of Route 54, south of Swan Drive, being lot 10A within Swann Point Development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Ronald E. Finelli was sworn in and testified requesting a 2.9-foot variance from the required 10-foot side yard setback requirement for a detached shed; that the shed will measure 9' x 14'; that the shed will be placed right up against the side of the dwelling; and that his mother gave him the shed.

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

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

Case No. 8336 – Lawson's Furniture – southwest of Route One, northeast of King's Highway.

A variance for a second wall sign and a variance from the maximum allowable square footage requirement for a wall sign.

Mr. Rickard presented the case. Faye Lawson was sworn in and testified requesting a variance for a second wall sign and a 60-square-foot variance from the allowable 100-square-foot for a wall sign; that the large banner measures 134-square-foot; that the smaller sign measures 26-square-foot; that the wall front measures 2,131-square-foot; that she obtained a permit for the banner; and that she plans to replace the banner when she can afford a better sign.

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

The Board found that no parties appeared 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. Workman, and carried unanimously that the variance be **granted with the stipulation that the wall sign will not exceed 150-square-foot and that the variance for a second wall sign be denied**. Vote carried 5 – 0.

Case No. 8337 – Nathaniel and Sandra Justice – north of Road 417, 687.97 feet east of Road 417B.

A variance from the minimum acreage requirement for a farm and a special use exception to retain a manufactured home as an on-farm placement.

Mr. Rickard presented the case. Nathaniel Justice was sworn in and testified requesting a special use exception to retain a manufactured home on less than 10-acres and a variance for a second manufactured home on less than 10-acres; that one unit was placed on the property as a medical hardship in 1993; that the medical hardship is no longer in effect; that the second manufactured home has been on the property for 8-years; that his son lives in the second unit; that the first unit will be used for farm help; and that he has poultry houses on the property.

By a show of hands 6 parties appeared in support 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 special use exception and the variance be **granted with the stipulation that once the farm help is no longer needed the manufactured home must be removed**. Vote carried 5 – 0.

Case No. 8338 – John and Francis Muldoon – north of Route 26, 300 feet east of Vines Lane, within Point Farm Development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. John Muldoon was sworn in and testified requesting a 1.3-foot variance from the required 15-foot side yard setback requirement for a dwelling; that he built the dwelling; that he had a surveyor stake out the location of the dwelling; that between the two of them they made a mathematical error; that they were not aware of the error until the final placement survey was completed; and that the neighbors are in support of the application.

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

Mr. Rickard read a letter from the Homeowner's Association and the Architectural Review Board in opposition to the application.

John Muldoon, stated that his parcel is grand-fathered in as an out lot and not considered part of the development.

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

Case No. 8339 – Louis Foreacre – south of Route 54, north of Breakwater Run, being Lot 153 within Keenwick Sound Development.

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

Mr. Rickard presented the case. Louis Foreacre was sworn in and testified requesting a 21.6-foot variance from the required 40-foot front yard setback requirement for a through lot for a shed; that he purchased the property in 2000; that he obtained a building permit; that the permit was issued with the incorrect setback requirement; and that the shed has been on the lot for 3 years.

Donald Bill was sworn in and testified in opposition to the application; that the lots are oversized to compensate for the greater setback requirements; and that the Applicant was aware of the required setback.

Mr. Rickard stated that there have been other variances granted in the area.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to take the case under advisement. Vote carried 5 – 0.

At the conclusion of the public hearings, the chairman referred back to this case. Motion by Mr. Workman, seconded by Mr. Mills, and carried unanimously that a 21.6-foot variance be **granted**. Vote carried 5 – 0.

Case No. 8340 – John T. and Teresa C. Handy – southeast of Road 336, 1,400 feet northeast of Road 336A.

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

Mr. Rickard presented the case. John and Teresa Handy were sworn in and testified requesting a 50-foot variance from the required 150-foot lot width requirement for a parcel; that she wants to purchase the parcel from her parents; that they currently live in the manufactured home; that her brother lives in the non-conforming dwelling; that all improvements will meet the required setbacks; and that the Department of Transportation has no objection to the entrances that exist.

Mr. Rickard explained to the Board the surveyors coding on the survey.

By a show of hands 3 parties appeared in support of the application.

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

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

Case No. 8341 – Frank and Kathy Nichols – north of Road 496, 2, 055 feet west of Road 493.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Frank Nichols was sworn in and testified requesting a 10-foot variance from the required 15-foot side yard setback requirement for a proposed detached garage; that the

detached garage will measure 30' x 30'; that the proposed location is due to the existing well; and that the neighbors are in support of the application.

By a show of hands 2 parties appeared in support 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 variance be **granted**. Vote carried 5 – 0.

Case No. 8342 – Fern T. Haug – east of Road 302A, 2,190 feet south of Road 47.

A special use exception to place a second on-farm manufactured home.

Mr. Rickard presented the case. Robert and Fern Haug were sworn in and testified requesting a special use exception to place a second on-farm manufactured home; that the unit is on the property now; that she replaced the unit with a new double-wide manufactured home; that her son will live in the single-wide unit to help care for his mother; that they will have a few farm animals; and that 5-acres is leased out to a local farmer.

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

Mr. Rickard read a letter from Mr. and Mrs. Palizzi in opposition to the application.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the special use exception be **denied as applied for and to allow the applicant to re-apply for a special use exception to retain a manufactured home on a medical hardship basis**. Vote carried 5 – 0.

Case No. 8343 – Phyllis Alexander – east of Route One, east of Sandpiper Road, being Lot D-28 within Ocean Village Development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Phyllis Alexander was sworn in and testified requesting a 4.4-foot variance from the required 10-foot side yard setback requirement; that she enclosed an existing stairway for extra storage; that the new stairway encroaches into the setback; that she obtained a building permit; that the Beach Preservation Department of Natural Resources approved her plans; that the elevation certificate showed the height of the stairway; that the Zoning Inspector sent her a violation notice that the stairway was encroaching; that the stairway cannot be seen from the road; and that the neighbor is in support 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. 8344 – Timothy Chad Miller – north of Road 524, 3,350 feet east of Road 516.

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

Mr. Rickard presented the case. Timothy Chad Miller was sworn in and testified requesting a 75.5-foot variance from the required 150-foot lot width requirement for a parcel; that he purchased the property from his grandmother; that he wants to subdivide the property into 3 parcels; that the property is under contract to be sold as 2 parcels; that he is seeking a variance only in the event that the contracts don't follow through; that the existing dwelling and manufactured home will remain with the 14-acre parcel; that the second plan will be that the parcel with the dwelling and manufactured home will be subdivided into a 1.5-acre parcel; that the manufactured home is currently being leased; and that he has no objection to a shared driveway.

Dorothy Winder was sworn in and testified in opposition to the application; that she owns the adjacent property; and that she just did not fully understand the request.

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

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

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variance be **granted with the stipulations that if a variance is needed, the parcels are to share a driveway; and that the manufactured home must be removed at the end of the lease.** Vote carried 5 – 0.

Case No. 8345 – Gretchen and John Hegwood – south of Route 22, north of Fisherman's Road, being Lot 88 within White House Beach Mobile Home Park.

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

Mr. Rickard presented the case. William Showell and Glenn Showell were sworn in and testified requesting a 5-foot variance from the required 20-foot separation requirement between units in a mobile home park; that the Applicant wants to replace the existing unit with a larger unit; that the proposed unit will measure 28' x 60' with a 14' x 52' addition; that the mobile home park has no objection to the application; and that the neighbors have no objection to 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. 8346 – Frank Gerhardt – Route 16, west of Bay Shore Drive, being Lot 40, Section 3, within Old Inlet Beach Development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Frank Gerhardt was sworn in and testified requesting a 3-foot variance from the required 10-foot side yard setback requirement for an elevator shaft; that his wife cannot negotiate steps due to her health; and that the neighbors have no objection to the application.

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

The Board found that no parties appeared 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.

OLD BUSINESS

Case No. 8196 – Patrick J. and Shari Tell – south of Road 312, 75 feet west of Road 297.

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

Case No. 8198 – James F. and Vicki L. Sadowski – north of Road 279B, south of Hunt Club Road, being Lots 43, 49 and 55 within Joy Beach Subdivision.

A variance from the rear yard setback requirement.

The Board discussed the case.

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

Case No. 8199 – Linda J. Wagner – northeast of Road 297, east of Mercer Avenue, being Lot 7 within Addition to Oak Orchard Subdivision.

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

The Board discussed the case.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variances be **granted with the exception of the requested #3 variance listed on the application as it was not needed**. Vote carried 4 – 1.

Case No. 8201 – John C. and Patricia E. Rudy – north of Road 297, south of River View Avenue, being Lots 21 and 22 within Addition to Oak Orchard Subdivision.

A variance from the front yard setback requirement.

The Board discussed the case.

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

Case No. 8202 – Paul E. and Rosene Wagner – northeast of Road 297, east of Mercer Avenue, being Lots 9, 10, 11, 19 and 20 within Addition to Oak Orchard Subdivision.

A variance from the front yard setback requirement.

The Board discussed the case.

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

Case No. 8203 – Patricia E. Vassallo – northeast of Road 297, south of River View Avenue, being Lots 25 and part of 26 within Addition to Oak Orchard Subdivision.

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

The Board discussed the case.

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

Case No. 8204 – Linda J. Wagner – northeast of Road 297, east of Mercer Avenue, being Lot 8 within Addition to Oak Orchard Subdivision.

A variance from the front and side yard setback requirements.

The Board discussed the case.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variances be **granted**. 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.

The Board discussed the case.

Motion by Mr. McCabe, seconded by Mr. Workman, and carried unanimously that the special use exception be **denied**. 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.

The Board discussed the case.

Motion by McCabe, seconded by Mr. Hudson, and carried unanimously that the special use exception and variance be **tabled pending a new application for a variance**. Vote carried 5 – 0.

Case No. 8319 – Sprint Spectrum LP – south of Route 36, across from Road 615.

A special use exception to place a communication tower and a variance from the lighting requirement for towers.

The Board discussed the case.

Motion by Mr. Hudson, seconded by Mr. Mills, and carried unanimously that the special use exception and variance be **granted with the stipulation that they are to conform with FAA regulations**. Vote carried 5 – 0.

Case No. 8327 – Albert J. and Patricia A. Riedinger – east of Route One, 300 feet north of Maryland Avenue, being Lot 7, Block C.

A variance from the side and front yard setback requirements.

The Board discussed the case.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variance be **granted with the stipulation that the proposed structure be equal to and no greater than the existing dwelling.** Vote carried 5 – 0.

Case No. 8331 – Joyce P. and James H. Adkins, Jr. – west of Route 24, 450 feet east of Sunset Lane, being part of Lots 17 and 19.

A variance from the side yard setback requirement.

The Board discussed the case.

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

Meeting Adjourned 10:14 P.M.