

## MINUTES OF SEPTEMBER 29, 2003

The regular meeting of the Sussex County Board of Adjustment was held Monday evening September 29, 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 Ms. Trifillis – Assistant County Attorney, Mr. Rickard – Secretary to the Board, and Mrs. Norwood – Recording Secretary.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Agenda as circulated. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously to approve the Minutes of September 22, 2003 as circulated. Vote carried 5 – 0.

Ms. Trifillis read a statement explaining how the Board of Adjustment meeting is conducted and the procedures for hearing the cases.

**Case No. 8347 – Harold Marvel** – north of Route 26, 618 feet east of Road 17.

A special use exception for a tent.

Mr. Rickard presented the case. Harold Marvel was sworn in and testified requesting a special use exception for a tent; that he purchased the canopy for his produce stand; that the canopy is only used from July 4<sup>th</sup> through Labor Day; that it meets the required setbacks; and that he submitted pictures.

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 special use exception be **granted for a period of five (5) years and only used from July 4<sup>th</sup> through Labor Day**. Vote carried 5 – 0.

**Case No. 8348 – Daniel L. Furr** – east of Road 273A, north of Basin Street, being Lots 79, 80, 81, and 82 within Bay Vista Development.

A variance from the side and rear yard setback requirements.

Mr. Rickard presented the case. Daniel Furr and Maurice Faulkner were sworn in and testified requesting a 15-foot variance from the required 20-foot rear yard setback requirement and 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 32'; that the proposed garage will be large enough to store his pontoon boat; that to

comply with the required setbacks would interfere with an existing maple tree; that he has his neighbors signatures in support of the application; and that he submitted pictures.

Mr. Rickard stated that the Applicant submitted a letter with 11 signatures 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. Workman, and carried unanimously that the variances be **granted**. Vote carried 5 – 0.

**Case No. 8349 – Emma Diann Pawlowski** – north side of Road 471, 2,470 feet west of Road 432, being Lot 10.

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

Mr. Rickard presented the case. Emma Pawlowski was sworn in and testified requesting a 41-foot variance from the required 150-foot lot width requirement for a parcel; that the proposed lot will be for her son; and that the parcels will use a shared driveway.

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 with the stipulation that the parcels share a driveway**.  
Vote carried 5 – 0.

**Case No. 8350 – Gary and Moira Barson** – south of Route 22, west of River Road, being Lot 152 within Pot Nets Bayside Mobile Home Park.

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

Mr. Rickard presented the case. Gary Barson was sworn in and testified requesting a 5-foot variance from the required 20-foot separation requirement between units in a mobile home park; that he wants to replace the existing unit with a 2003 unit; that due to a shed on the adjacent lot he cannot meet the required separation requirement; that the proposed unit will measure 28' x 66'; and that he will meet the required 35% allowable lot coverage.



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. 8351 – A. Onedia Purnell** – east of Road 485, 250 feet south of Route 20.

A special use exception for a day care facility.

Mr. Rickard presented the case. A. Onedia Purnell was sworn in and testified requesting a special use exception for a day care facility; that she will care for 14 children from age 2-years old to 11-years old; that the hours of operation will be 24-hours a day, 7-days a week; that she has adequate parking; and that her back yard is fenced in.

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 special use exception be **granted**. Vote carried 5 – 0.

**Case No. 8352 – Marny Carroll** – north of Road 437A, 1,450 feet west of Road 62.

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

Mr. Rickard presented the case. Marny Carroll was sworn in and testified requesting a 100-foot variance from the required 150-foot lot width requirement for a parcel; that the existing manufactured home has been removed; that she proposed to build a modular dwelling on the front lot; that the lot in the back will be for her sister; and that they will share a driveway.

Mr. Rickard stated that the office received 1 letter 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 with the stipulation that the parcels share a driveway**. Vote carried 5 – 0.

**Case No. 8353 – Scott Fawcett** – east of Road 299, south of Robins Hood Loop, being Lot 3, Block E, within Sherwood Forest Development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Scott Fawcett was sworn in and testified requesting a 2-foot variance from the required 5-foot side yard setback requirement for a detached garage; that the proposed garage will measure 20' x 30'; that the garage will line up with existing driveway; and that he does not want to lose any more of his back yard.

The Board found that no parties appeared in support of or 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. 8354 – Dorothy F. Seier** – southeast of private road, 100 feet south of Indian River Bay, within West Beach Development.

A variance from the front and side yard setback requirement.

Mr. Rickard presented the case. Mike Brady was sworn in and testified requesting a 22-foot variance from the required 30-foot front yard setback requirement, a 10-foot variance from the required 15-foot side yard setback requirement and a 14-foot variance from the required 15-foot side yard setback requirement for new steps; that the dwelling was damaged by flood waters; that the dwelling was elevated per a FEMA Grant program; and that the steps were added to gain access to a non-conforming dwelling.

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

**Case No. 8355 – Michael V. and Susan M. Masciandaro** – south of Road 312, 480 feet west of Road 297.

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

Mr. Rickard presented the case. Mike Brady was sworn in and testified requesting a 2-foot variance from the required 10-foot side yard setback requirement for a set of steps, a 2-foot variance from the 10-foot rear yard setback for a deck, a 21-foot variance from the required 40-foot front yard setback requirement for an existing garage; that the



dwelling was damaged by flood waters; that the dwelling was raised by a FEMA Grant program; and that the garage was not elevated.

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**. Vote carried 5 – 0.

**Case No. 8356 – Roy Andrews** – south of Road 263, being Lot C-5 within Donovans Mobile Home Park.

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

Mr. Rickard presented the case. Roy Andrews was sworn in and testified requesting a 8.5-foot variance from the required 20-foot separation requirement between units in a mobile home park; that his contractor obtained the building permit; that his contractor told him that due to the porch being built on an existing deck there would be no problems with the setbacks; that the contractor cannot be located; that his name was Andrew Dick with Coastal Remodeling; that the park owner is in support of the application; that the application fee was waived due to the permit not having the correct setback requirements; and that he submitted a paper with the contractor's phone number.

The Board found that no parties appeared in support of or 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. 8357 – Patricia Lasick** – east of Road 350, south of Hollywood Drive, being Lot 10, Block C, within Land of Pleasant Living Development.

A variance from the side and rear yard setback requirements.

Mr. Rickard presented the case. William Winter was sworn in and testified requesting a 5-foot variance from the required 10-foot side yard setback and a 5-foot variance from the 10-foot rear yard setback requirement for a proposed attached garage; that the garage will measure 29' x 26'; and that he submitted new survey.

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

**Case No. 8358 – Peninsula At Long Neck, LLC** – north of Road 299, north of Road 299A.

A special use exception for a temporary building for use as a sales or rental office and a variance from the loading space requirement.

Mr. Rickard presented the case. Larry Goldstein was sworn in with Jim Fuqua, Attorney, on behalf of the application testified requesting a special use exception for a sales office and a variance from the loading space requirement; that the sales office will be used for the proposed development; that the development will have 1,400 residential units, a commercial component, and a proposed golf course; that they plan to amend the existing approved RPC to include the sales center as a permanent structure; that the center will be well maintained and an attractive bonus to the development; that the hours of the center will be 8:00 a.m. to 8:00 p.m.; and that they will not have a need for a loading area as required by the Zoning Ordinance.

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

**Case No. 8359 – Jerry Stansberry** – west of Route One, corner of Quillen Road and Bay Road, being Lot 25.

A variance from the side and rear yard setback requirements.

Mr. Rickard presented the case. Jerry Stansberry was sworn in and testified requesting a 1-foot variance from the required 10-foot rear yard setback requirement for a deck, a 6.3-foot variance from the required 10-foot side yard setback requirement for a dwelling and a 5.4-foot variance from the required 10-foot side yard setback requirement for a dwelling; that she wants to build a new dwelling in the same footprint as the existing dwelling; and that the rear deck is only 2-foot high.

Susan Smith and Walter W. Brittingham were sworn in and testified in opposition to the application; that they are concerned with the parking on the street; that they wanted to know if the County enforced off-street parking when building a new dwelling; that the posted notice was not up for the proper length of time; that an adjacent neighbor did not receive notice of the hearing; and that they submitted pictures.



Mr. Rickard stated that the posting was placed on the property August 28, 2003 by the Zoning Inspector.

In rebuttal, Jerry Stansberry, stated that the photograph labeled #3 showed a walkway not a parking space; that photograph #4 and #5 showed her parking area; that she also does not agree with parking on the street; and that the existing parking area will not be effected by the proposed dwelling.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variances be **granted due to no proposed change for the existing parking and a 6.4-foot variance on the Bay Road side, a 4.3-foot variance on the opposing side yard and a 1-foot variance from the rear yard side.** Vote carried 5 – 0.

**Case No. 8360 – William C. Rust** – south of Road 635, 1,600 feet east of Road 42.

A special use exception from the provisions and requirements to retain a manufactured home on a parcel.

Mr. Rickard presented the case. William & Laura Rust were sworn in and testified requesting a special use exception to retain a manufactured home on a parcel; that the unit was placed in 1994; that the unit was placed to help care for his grandmother; that the parcel was 23.06-acre; that they purchased the 1.12-acre parcel from his parents; that the parcel included the dwelling and the manufactured home; that they received a letter of violation from the Planning and Zoning Department; that they have a pending sale for the property; that the sale is set with or without the manufactured home; and that they submitted pictures.

Tom Rust, Anna and Clarence Biddle were sworn in and testified in opposition to the application; that they are the neighbors to the Applicants; that they were under the impression the manufactured home was placed on a medical hardship basis; that the need for the unit as a medical hardship is no longer in place; that they oppose to the unit being used as a rental home; and that they feel if this application is granted it will set a precedent.

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

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

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the special use exception be **denied and filing fee refunded as the application did not meet the necessary criteria to file for a Board of Adjustment hearing.** Vote carried 5 – 0.

**Case No. 8361 – Susan L. and Christopher W. Pressley** – south of Road 500, 5,067 feet west of Road 493.

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

Mr. Rickard presented the case. Belva Ellis and Susan Pressley were sworn in and testified requesting a 88.55-foot variance from the required 150-foot lot width requirement for a parcel; that she wishes to convey a 5-acre parcel to her daughter; that due to existing improvements the property line cannot be moved to allow for the required lot width; and that an existing telephone pole prevents them from using a shared driveway.

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

**Meeting Adjourned 9:08 p.m.**