

MINUTES OF OCTOBER 20, 2003

The regular meeting of the Sussex County Board of Adjustment was held Monday evening October 20, 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 II, 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 October 3, 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. 8377 – Randall V. and Diane M. Pentoney – north of Route One, 800 feet east of Admiral Street, being Lot 19 within Tower Shores Development.

A variance from the minimum lot size requirement for a multi-family structure and a variance from the front yard setback requirement.

Mr. Rickard presented the case. Donna Thomas was sworn in and testified requesting a 3,630-square-foot variance from the required 10,000-square-foot lot size requirement and a 10-foot variance from the required 30-foot front yard setback requirement for a proposed multi-family structure; that the existing non-conforming 4-unit structure will be torn down; that the proposed structure will contain 2-units; that the majority of the community consists of multi-family structures; that there have been similar variance granted in the area; and that the walkways are at grade.

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. 8378 – James A. and Linda Raab – north of Road 358, west of Possum Road, being Lot 172 within Bayshore Mobile Home Park.

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

Mr. Rickard presented the case. James Raab was sworn in and testified requesting a 2.9-foot variance from the required 20-foot separation requirement between units and a 5-foot variance from the required 20-foot separation requirement between units in a mobile home park; that the proposed shed measures 6' x 8'; that there is no place on the property that the shed could be placed to meet the required separation requirement; and that the park owner made him aware of the required variance.

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. 8379 – Desiree Anderson – south of Road 315, 539 feet south of Road 48.

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

Mr. Rickard presented the case. Desiree and Leon Anderson were sworn in and testified requesting a special use exception to retain a manufactured home on a parcel; that Mr. Anderson wants to subdivide a 1-acre parcel for his daughter; that she has lived in the unit for 11-years; that she is currently remodeling a log cabin to replace the manufactured home; and that they hope to complete the log cabin within the next 2-years.

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 with the stipulation that the manufactured home will be removed 18-months after the signature date of the Finding of Facts**.

Vote carried 5 – 0.

Case No. 8380 – Donald D'Aquila – north of U.S. Route 13, north corner of Road 46.

A variance for an additional wall sign.

Mr. Rickard presented the case. Robert Kelly and Donald Collins were sworn in and testified requesting a variance for an additional ground sign; that a previous variance was granted in 2000; that the sign is for the proposed hotel; that they are in the final stages of approval with Planning and Zoning department; and that the sign will meet all required setback requirements.

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 for a period of one (1) year**. Vote carried 5 – 0.

Case No. 8381 – Carl and Valerie Telewicz – south of Route 54, east of Keen Wik Road, being Lot 10, Block G within Keen Wik Development.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Valerie Telewicz was sworn in and testified requesting a 11.3-foot variance from the required 30-foot front yard setback requirement for a covered porch with steps; that the porch was built by a contractor; that she applied for a variance in the year 2000 for her dwelling; that she was advised by the County that the variance was not needed and that she would receive a refund; and that the porch was built in July 2003.

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 11.3-foot and that a letter be sent the contractor**. Vote carried 5 – 0.

Case No. 8382 – Shirley Wilson – east of Road 390A, west of Appaloosa Drive, being Lot 38 within El Rancho Roxana Development.

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

Mr. Rickard presented the case. Shirley Wilson was sworn in and testified requesting a 13-foot variance from the required 30-foot front yard setback requirement for a shed; that the shed, deck and manufactured home have been on the property since 1992; that she does not know if the previous owner obtained the proper building permits; and that the neighbor has 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. 8383 – Sussex Family YMCA – east of Road 421, 1.2 miles north of Route 24.

A special use exception for a day care/learning center.

Mr. Rickard presented the case. Claudia Monroe was sworn in and testified requesting a special use exception for a day care/learning center; that the hours of operation will be 9:00 a.m. to Noon., Monday through Friday; that they will care for 12 children ages 3 and 4-years old; and that this is an outreach program offered in the community.

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

Case No. 8384 – Justin Healy and Ocean Atlantic Associates – south of Route One, east of Road 273A, within Oyster Bay Development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Robert Justin Healy was sworn in and testified requesting a 3.9-foot variance from the required 15-foot side yard setback requirement for a multi-family structures; that he only needs a variance for Unit 4; that Unit 12 does not need a variance per Mr. Lank of Planning and Zoning since that portion of the parcel is in C1 Zoning; that they want to build an enclosed porch on Unit 4 like the other units in the development; 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 variance be **granted for Unit 4**. Vote carried 5 – 0.

Case No. 8385 – Cornelius S. and Edith M. Stephens – west of Road 321, 1,025 feet south of Route 18, being Lot 9.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Cornelius Stephens was sworn in and testified requesting a 2.2-foot variance from the required 15-foot side yard setback requirement and a 5-foot variance from the required 5-foot rear yard setback requirement; that the

request for the 5-foot variance is not needed since the sheds have been removed; that he purchased the dwelling in August 2003; that the Certificate of Compliance was issued in February 2003; that the dwelling has been on the property for a few years prior to the issuance of the Certificate of Compliance; and that he was unaware of the encroachment until just before settlement.

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 for 2.2-foot**. Vote carried 5 – 0.

Case No. 8386 – Gerard and Patricia Petrik – south of Route 54, south of Lincoln Drive, being Lot 51 within Cape Windsor Development.

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

Mr. Rickard presented the case. Gerard Petrik was sworn in and testified requesting a 10-foot variance from the required 15-foot corner side yard setback requirement and a 10-foot variance from the required 20-foot rear yard setback requirement for additions; that he wants to build two additions measuring 12' x 12' and 20' x 20'; that the side of the property the additions will be built on will not effect his neighbors; that there will be no obstruction of view from the road; that due to the irregular shape of the property it creates a hardship to meet the required setbacks; and that he submitted pictures.

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

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

Case No. 8387 – James L. and Mabel Bailey – west of Road 293, 1,180 feet north of Road 292.

A special use exception to retain a manufactured home on a medical hardship basis.

Mr. Rickard presented the case. James and Mabel Bailey were sworn in and testified requesting a special use exception to retain a manufactured home for a medical hardship; that the unit has been on the lot for 12-years; that the unit was originally granted as a medical hardship; that the daughter lives in the manufactured home to care for her parents; and that a letter was submitted from their doctor.

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 two (2) years**. Vote carried 5 – 0.

Case No. 8388 – Fowler & Son Contractor, Inc. – northeast of Road 213B, southeast of Road 213.

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

Mr. Rickard presented the case. Robert W. Nash was sworn in and testified requesting a 16.16-foot variance from the required 150-foot lot width requirement for a parcel; that the variance is for the residual land that a dwelling is currently on; that a new dwelling will be constructed on the new parcel; and that he has no objection to a shared driveway.

Jack M. Meredith was sworn in and testified in opposition to the application; that he is opposed to another dwelling being built near his property due to septic system failures in the area; and that the approval of this variance could set a precedent in the community.

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

Motion by Mr. McCabe, seconded by Mr. Workman, and carried unanimously that the case be **tabled until November 3, 2003**. Vote carried 5 – 0.

Case No. 8389 – Beazer Homes – south of Route 88, southwest corner of Samuel Paynter Boulevard and west of Eliza Wiltbank Drive.

A special use exception to place a manufactured home type structure for a sales and information center.

Mr. Rickard presented the case. William Hoffer was sworn in and testified requesting a special use exception to place a manufactured home type structure for a sales and information center; that the unit will measure 12' x 56'; that the unit will be removed once the model home is constructed; that the unit will maintain required setback requirements; that the site will be landscaped; and that the use should not exceed a six (6) month period.

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 special use exception be **granted for a period of six (6) months**. Vote carried 5 – 0.

Case No. 8390 – Mark E. Skidmore – west of Road 326, 1,925 feet south of Road 432, being Lot F-2.

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

Mr. Rickard presented the case. Mark Skidmore was sworn in and testified requesting a 10-foot variance from the required 15-foot side yard setback requirement and a 15-foot variance from the required 20-foot rear yard setback requirement for a proposed detached pole garage; that the proposed garage will measure 30' x 56'; that there will be a 16' x 28' workout room attached to the garage; that the building will be L-shaped; that there is an open field to the rear of his property; and that he submitted a drawing of the proposed detached garage.

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

Case No. 8391 – Michael and Mary Redel – north of Route 54, east of Blue Teal Road, being Lot 21, Block B, Section A, within Swann Keys Development.

A variance from the side yard setback requirement.

Mrs. Heffelfinger presented the case. Michael and Mary Redel were sworn in and testified requesting a 5-foot variance from the required 10-foot side yard setback requirement for a proposed dwelling; that the dwelling will measure 24' x 70'; that the dwelling will replace an existing manufactured home; and that the Homeowner's Association is in favor of the application pending the Board's decision.

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

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

Meeting Adjourned 8:34 p.m.