

MINUTES OF DECEMBER 23, 2002

The regular meeting of the Sussex County Board of Adjustment was held Monday evening December 23, 2002, 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, and Mrs. Norwood – Recording Secretary.

Motion by Mr. McCabe, seconded by Mr. Hudson, and carried unanimously to approve the Revised Agenda. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously to approve the Minutes of December 16, 2002. 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. 8021 – Land Design, Inc. – west of Route One, one (1) mile north of Fenwick Island town limits.

A variance from the front yard setback requirement, a variance from the maximum height requirement for a fence, and a variance from the minimum lot width requirement.

Mr. Oates presented the case. Thomas J. Ford was sworn in and testified requesting a 30-foot variance from the required 40-foot front yard setback requirement, and a 2.6-foot variance from the 3.5-foot required height requirement for a fence; that the property is zoned MR; that the adjacent properties currently have similar development like what is proposed by the Applicant; that the request for the fence would be the same request Kings Grant was approved for; that due to the wetlands it creates the need to request the front yard setback variance; that the Applicant has approval from the Army Corps of Engineer; that County Engineerina has approved the site for 3 equivalent dwelling units and that this request is for only 2 EDUs; that DelDot has approved a shared driveway for the 2 proposed parcels; that, upon approval from the Board, Parcel A will increase in size from 399-square-foot to 2,180-square-foot and that Parcel B will increase from 1,123-square-foot to 3,255-square-foot providing plenty of room to build; that the location of the proposed building will not obstruct any neighboring views of the Bay; and that he submitted pictures, essays, and a proposed site plan.

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

Mr. Oates stated that the office has received 18 letters of opposition to the application.

John Dennis and Carlos Elridge were sworn in and testified in opposition to the application; that they did not receive notification of the hearing in the mail; that they did not understand what had been said by the Applicant; and that when they purchased their units they were told that only 2 single-family dwellings could be built on that parcel.

Mr. Berl stated that the hearing was advertised correctly and the Board would answer any questions to help them understand what was said at the hearing.

Fred Wetzelberger, was sworn in and testified in opposition to the application; that the hearing was not properly advertised; that the requested front yard variance is an excessive request; that the request for the fence creates a hardship to adjacent properties; that the fence Kings Grant currently has directs flood waters and debris toward Seatowne; and that the property has a ditch that has never been maintained.

Robert Griffin, was sworn in and testified in opposition to the application; that he is a full-time resident and has concern for the invasion on the wetlands; and that he understood that any new building would have to meet the required setbacks.

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

Case No. 8050 – John Shockley – north of Route 24, 1,350 feet east of Road 310.

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

Mr. Oates presented the case. John Shockley was sworn in and testified requesting a special use exception to place a manufactured home structure for a sales office; that he currently runs a golf cart and small engine repair shop; that an existing building measures 30'x 50'; that the carts are stored in an existing fenced-in area; that the use would be needed for 3 to 5 years; and that the unit will meet the required setbacks.

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

Case No. 8051 – Randy R. Perdue – south of Road 419, 495 feet north of Road 413, being Lot 8.

A variance from the south side yard setback requirement.

Mr. Oates presented the case. Vernon Perdue was sworn in and testified requesting a 7-foot variance from the required 15-foot side yard setback requirement; that the proposed garage will measure 30'x26'; that would like to line the garage with the existing driveway; that he only has 41-foot from the existing house and the property line; 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. Hudson, seconded by Mr. McCabe, and carried unanimously that the variance be **granted**. Vote carried 5 – 0.

Case No. 8052 – David Seidl – east of Route One, 1.7 miles south of York Beach Road, being Lot 37, within King's Grant Condominium.

A variance from the south side yard setback requirement.

Mr. Oates presented the case. David Seidl and Susan Frederick were sworn in and testified requesting a 10-foot variance from the required 10-foot side yard setback requirement for a proposed addition; that his unit was meant to be an interior unit; that due to the unit not being an end unit it creates a difference in appearance to the rest of the buildings in Kings Grant; that the design of the proposed building will conform with the appearance of the rest of the development; and that the Association approves the proposed addition.

Mr. Oates stated the office received 1 letter in favor of the application and 3 letters in opposition to 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. 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. McCabe, seconded by Mr. Hudson, and carried unanimously that the variance be **granted**. Vote carried 5 – 0.

Case No. 8053 – James Georgo – south of Route One, west of Belle Road, being Lot 34, within Bayview Park Subdivision.

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

Mr. Oates presented the case. James Georgo was sworn in and testified requesting a 5-foot variance from the required 10-foot side yard setback requirement for a second level deck and a 1.3-foot variance from the required 10-foot rear yard setback requirement for an existing deck; that the existing deck is on the second level, however it is even with the first floor of living space; that the existing second level deck is too small and needs to be replaced; and that the Association is in opposition to the application and he is not sure why.

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

Mr. Oates stated that the office received 2 letters in favor of the application.

John Hendrickson, was sworn in and testified in opposition to the application; that he is the President of the Board of Directors; that the variance is base on convenience and that the existing deck does not create a hardship; and that approving the application will set a precedent.

Motion by Mr. McCabe, Mr. Hudson, and carried unanimously that the case be **tabled until January 13, 2003**. Vote carried 5 – 0.

Case No. 8054 – Iglesia De Dios Maranatha – north of Road 524, 3,750 feet east of Road 516.

A special use exception to operate a day care facility and a special use exception to place a manufactured home for use as storage.

Mr. Oates presented the case. Israel Figueroa was sworn in and testified requesting a special use exception to operate a day care facility and a special use exception to use a manufactured home for storage; that he is the pastor for the church; that the proposed building will measure 114'x40' and will be used as the sanctuary and classrooms; that the daycare will provide care for 40 children ages newborn to 3-years old; that the hours will be Monday through Friday from 6:00 a.m. to 6:00 p.m.; that the

manufactured home will store any donated items the church receives; and that no one will reside within the unit.

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. McCabe, seconded by Mr. Mills, and carried unanimously that the special use exceptions be **granted**. Vote carried 5 – 0.

Case No. Timothy and Mary Bigelow – west of Bay Shore Drive, being Lot 83, 5th Addition, within Joseph D. Short Subdivision.

A variance from the southwest side yard setback requirement.

Mr. Oates presented the case. Jim Fuqua, Attorney, on behalf of the Applicant requesting a 2.4-foot variance from the required 10-foot side yard setback requirement; that the Applicant purchased the property in 2002 and a survey showed the encroachment; that in 1990 a survey was recorded with the exact same improvements and did not reveal any encroachments; and that there have been several variances approved in the area.

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. 8056 – Sally B. and Lawrence D. Tobin, Jr. – east of Raod 274, west of Loganberry Lane, being Lot 23, within Breezewood Subdivision.

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

Mr. Oates presented the case. Lawrence Tobin, Jr. was sworn in and testified requesting a 30-foot variance from the required 40-foot front yard setback requirement for a proposed garage; that he purchased the property in 2001; that the location of the garage will not impede vision from the road; that an existing propane tank and addition on the existing dwelling do not allow him to build closer to the dwelling; that the neighbor has no objection to the application; and that the garage will also act a sound buffer.

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

Mr. Oates stated that the office received 1 letter in favor of the application.

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

Case No. 8057 – Douglas and Nancy Heisserman – north of Road 34, south of Long Leaf Road, being Lot 180, within Dogwood Acres Subdivision.

A variance from the rear yard setback requirement.

Mr. Oates presented the case. Douglas Heisserman was sworn in and testified requesting a 10-foot variance from the required 20-foot rear yard setback requirement for a proposed manufactured home; that he wants to replace the existing single-wide with a double-wide; that he wants to place the proposed unit in the same rear footprint as the existing unit; and that the neighbor is only 7-foot from the property line.

Mr. Oates stated that the office received 2 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, Mr. Hudson, and carried unanimously that the variance be **granted**. Vote carried 5 – 0.

Case No. 8058 – James and Marion Marvel – north of Route 16, 270 feet east of Raod 235.

A variance from the rear yard setback requirement.

Mr. Oates presented the case. Jim Marvel was sworn in and testified requesting a 3-foot variance from the required 5-foot side yard setback requirement; that he has sold the property and the violation was found at settlement; that he contracted a builder to obtain the proper permits and to build the garage; and that the garage was built in 1993.

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

Case No. 8059 – Patrick and Mary O'Donovan – northeast of Raod 272-B, southwest of Route One, being Lot 22, within Poynter's Addition Subdivision.

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

Mr. Oates presented the case. Mary O'Donovan was sworn in and testified requesting a 22-foot variance from the required 40-foot front yard setback requirement and a 5-foot variance from the required 10-foot side yard setback requirement; that there was some confusion on the setbacks for the garage and that now the garage cannot be built to the rear of the dwelling; that a gas station and hotel are adjacent to the lot; and that most of the surrounding homes are close to the road.

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

OLD BUSINESS

Case No. 8000 – Paul Daisey – east of Route One, 255 feet north of Virginia Avenue and 205 feet south of Virginia Avenue.

A variance from the minimum square footage requirement for multi-family structures.

Mr. Oates stated that the requested pictures and surveys were submitted to the office and the information was passed on to the Board.

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

Case No. 8028 – J & G Services LLC – northeast of Route One, 1,162 feet southeast of Road 268.

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

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. 8032 – Michael Makowski – intersection of Nassau Road and New Road.

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

The Board discussed the case.

No motion was made by the Board, Chairman Callaway **tabled the case until further notice**.

Case No. 8034 – Tunnell Companies, LP – south of Route 22, Pot-Nets Bayside Mobile Home Park.

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

See Case No. 8039 for details.

Case No. 8035 – Tunnell Companies, LP – north of Route 22, Pot-Nets Dockside Mobile Home Park.

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

See Case No. 8039 for details.

Case No. 8036 – Tunnell Companies, LP – south of Route 22, Pot-Nets Seaside Mobile Home Park.

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

See Case No. 8039 for details.

Case No. 8039 – Tunnell Companies, LP – northeast of Route 22, Pot-Nets Lakeside Mobile Home Park.

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

The Board discussed the case.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variances requested for Case numbers 8034, 8035, 8036, and 8039 be **denied**.
Vote carried 5 – 0.

Meeting Adjourned 9:05 p.m.