

## MINUTES OF DECEMBER 15, 2003

The regular meeting of the Sussex County Board of Adjustment was held on Monday evening December 15, 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. 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. Workman, and carried unanimously to approve the Minutes of December 8, 2003 with the correction of the case number for Sea Air Village from Case No. 8348 to Case No. 8438. 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. 8452 – Elizabeth and Gideon F. Sisk, III** – north of Road 437, 210 feet east of Route 62.

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

Mr. Rickard presented the case. Elizabeth Sisk was sworn in and testified requesting a special use exception from the provisions and requirements to retain a manufactured home on a parcel; that the unit was placed on the farm for a medical hardship; that her father has given her a 1-acre parcel where the unit is placed; that she plans to replace the unit with a dwelling; that she cannot afford a new dwelling at this time; and that she hopes to replace the unit within the next five (5) years.

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. Hudson, and carried unanimously that the special use exception be granted for a period of five (5) years. Vote carried 5 – 0.

**Case No. 8453 – Duane C. and Doris A. Taylor** – north of Road 49, northwest of Blackberry Lane, being Lot 4 within Burton Hall Estates.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Duane Taylor was sworn in and testified requesting a 1-foot variance from the required 5-foot side yard setback requirement for a shed; that a previous variance was granted in March 2003 for 4-foot; that he built the shed; that the shed is actually 8-inches from the property line; that the adjacent neighbor is in support of the application; 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 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 since it will have no adverse effect to the neighborhood**. Vote carried 5 – 0.

**Case No. 8454 – Daniel A. Mihaylo** – west of Road 619, 700 feet south of Road 634.

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

Mr. Rickard presented the case. Daniel Mihaylo was sworn in and testified requesting a 1.07-foot variance from the required 150-foot lot width requirement for a parcel; that he resides on the existing parcel; that he has a prospective buyer for the proposed lot; and that the prospective buyer plans to reside on the new parcel.

Sarah French was sworn in and testified in opposition to the application and stated that she wanted to know what type of dwelling would be placed on the new parcel and that she was concerned that it would be a manufactured home.

Mr. Mills stated to the opposition that the property is zoned to allow a double-wide manufactured home without a hearing.

Edward A. Smith was sworn in and testified in support of the application and stated; that he is the prospective buyer; that he plans to put a 2000-square-foot modular dwelling on the parcel; and that he feels it will fit in well with the neighborhood.

The Board asked the Applicant if he would have any objection to a stipulation of no manufactured homes on the property.

Mr. Mihaylo stated that he has no objection the stipulation.



Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the variance be **granted since it will not alter the character of the neighborhood and is a minimum variance request, and with the stipulation that no manufactured homes be placed on the property.** Vote carried 5 – 0.

**Case No. 8455 – Alex Arduino** – south of Route 22, north of Hillenwood, being Lot 108 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. Alex Arduino was sworn in and testified requesting a 7-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 he has replaced his existing manufactured home with a new double-wide manufactured home; and that the variance request is from his neighbors existing carport.

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. Mills, and carried unanimously that the variances be **granted due to the odd shape of the lot and since there was no opposition to the application.** Vote carried 5 – 0.

**Case No. 8456 – Henderson Properties LLC** – northwest of Road 290, 200 feet southwest of U.S. Route 13A.

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

Mr. Rickard presented the case. Dan Henderson was sworn in and testified requesting a special use exception to retain a manufactured home for a sales office; that the unit is currently being used as a construction trailer; that they plan to build a warehouse within the next five (5) years; that the property is zoned LI-2; that the unit is in keeping with the neighborhood; and that he submitted pictures and a survey.

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 five (5) year period since it will not adversely affect the neighborhood**. Vote carried 5 – 0.

**Case No. 8457 – Claudio and Louise Smarrelli** – south of Route 9, 1,171 feet west of Road 262, being Lot 1.

A special use exception for a billboard.

Mr. Rickard presented the case. Claudio Smarrelli and Kim Deal were sworn in with Craig Parsons, Attorney, on behalf of the application, and testified requesting a special use exception for a billboard; that the proposed billboard will be steel mono-pole construction; that the billboard will be 2-sided and will measure 10' x 30'; that the billboard will meet all the required setbacks; that there will be direct lighting on both sides; that previous application for a variance was a proposed wooden 5-pole structure; and that they submitted pictures.

By a show of hands, 5 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. Hudson, and carried unanimously that the Applicant has submitted a different application. Vote carried 5 – 0.

Motion by Mr. McCabe, seconded by Mr. Workman, and carried unanimously that the special use exception be **granted since it will meet all required setback requirements and will have no adverse affect on the neighborhood**.  
Vote carried 5 – 0.

**Case No. 8458 – John W. Malloy** – south of Route 22, being Lot 25 within Masseys Landing Mobile Home Park.

A variance from the maximum allowable lot coverage in a mobile home park.

Mr. Rickard presented the case. John Malloy was sworn in and testified requesting a 299.5-square-foot variance from the required 1403.5-square-foot allowable lot coverage for a lot in a mobile home park; that he owned one of the original cottages in the mobile home park; that due to extensive damage he could not renovate the cottage; that the proposed manufactured home will measure 28' x 52' with an 8-foot covered deck; and that he also plans to place a 5' x 10' shed on the lot.



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 since it will not alter the character of the neighborhood and the hardship was no fault of the Applicant**. Vote carried 5 – 0.

**Case No. 8459 – Elmer F. Bethards, Jr.** – south of Road 326A, 395 feet west of a private road.

A special use exception from the provisions and requirements to place a manufactured home.

Mr. Rickard presented the case. Elmer Bethards, Jr. was sworn in and testified requesting a special use exception from the provisions and requirements to place a manufactured home; that the proposed unit will measure 14' x 70'; that the existing dwelling measures 20' x 24'; that he plans to live in the manufactured home while building an addition on the existing dwelling; that the manufactured home will be removed as soon as the addition is completed; and that he submitted pictures.

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. Mills, seconded by Mr. Hudson, and carried unanimously that the special use exception be **granted for a period of two (2) years**. Vote carried 5 – 0.

**Case No. 8460 – Jack and Penny Napier** – west of Road 501, 351 feet north of Route 54.

A special use exception from the provisions and requirements to place a manufactured home and a variance from the minimum lot width and lot size for a parcel.

Mr. Rickard presented the case. Penny Napier was sworn in and testified requesting a 30-foot variance from the required 150-foot width requirement for a parcel, a 0.17-square-foot variance from the required 32,670-square-foot lot size requirement and a special use exception for a manufactured home on less than a ¼ acre parcel; that she wants to build a new dwelling on the new parcel; that there are several manufactured homes in the area; and that the neighbors are in support of 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. McCabe, seconded by Mr. Workman, and carried unanimously that the variance and special use exception be **granted since it will not alter the character of the neighborhood**. Vote carried 5 – 0.

**Case No. 8461 – Janice L. Brittingham** - south of Road 20, 1,718 feet southeast of a private road.

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

Mr. Rickard presented the case. Russell Brittingham was sworn in and testified requesting a special use exception for a manufactured home for a medical hardship basis; that he plans to live in the manufactured home; that his mother needs someone nearby to help with her care; and that he can help maintain the property for his mother.

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. Hudson, and carried unanimously that the special use exception be **granted for a period of two (2) years**. Vote carried 5 – 0.

**Case No. 8462 – Barbara L. Moulds** – south of Route 54, west of Grant Avenue, being Lot 42 within Cape Windsor Development.

A variance from the side yard setback requirement.

No one appeared on behalf of the application.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variance be **denied for lack of record of support**. Vote carried 5 – 0.

**Case No. 8463 – Ralph and Margarete Stark** – north of Route 9, 3,502 feet east of Road 474, being Lot 3.

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

Mr. Rickard presented the case. Margarete and Ralph Stark were sworn in and testified requesting a special use exception for a manufactured home on a medical



hardship basis; that she is the primary care giver for her husband, mother-in-law and sister-in-law; that her mother-in-law and sister-in-law currently live in a mobile home park; that her husband cannot drive due to his medical condition; that by moving the unit on her property her husband can help care for his mother and sister during the day; that the neighbor is in support of the application; and that the unit will not be seen from the road.

Mr. Rickard read a letter from the attending doctor.

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

Motion by Mr. Workman, seconded by Mr. McCabe, and carried unanimously that the special use exception be **granted for a period of two (2) years since it will not alter the character of the neighborhood**. Vote carried 5 – 0.

**Case No. 8464 – Emmett Venett** – south of Route 15, southeast of Valley run, being Lot 205 within Clearbrooke Estates Development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Emmett Venett was sworn in and testified requesting a 1.67-foot variance from the required 15-foot side yard setback requirement for an existing dwelling; that he cannot determine exactly where the mistake occurred; that the encroachment was discovered on the final placement survey; that the lot is an unusual shape; that the dwelling was set up to be parallel to the road; and that he submitted pictures.

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. Hudson, seconded by Mr. Mills, and carried unanimously that the variance be **granted due to the unusual shape of the lot and since it will have no adverse effect to the neighborhood**. Vote carried 5 – 0.

**Case No. 8465 – Ronald Finelli and Tracie Miller** – north of Route 54, south of Swann Drive, being Lot 10-A within Swann Point Development.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Tracy Finelli and Ronald Finelli were sworn in and testified requesting a 6.4-foot variance from the required 20-foot front yard setback

requirement for a temporary canopy; that the canopy will be used to shelter a boat; that he is currently renovating the boat; that the boat cannot be exposed to sun or water; that this type of canopy does not required a building permit; and that he will need the canopy for about a year.

Michael Schuckman was sworn in and testified in opposition to the application and stated; that the Applicants currently have 3 sheds on their property; that they have 3 vehicles and a trailer in the driveway; that the canopy will be in the way of parking in the driveway; that parking on the streets is prohibited; and that he submitted pictures.

William Harper was sworn in and testified in opposition to the application and stated; that he is the President of the Homeowner's Association; that the development has deed restrictions that prohibit temporary carports and tents; and that he knows that the Board of Adjustment cannot enforce deed restrictions.

Margaret Haine was sworn in and testified in opposition to the application and stated; that she is concerned for the overall appearance of the neighborhood; that she does not know how a canopy can protect the boat from the weather without any sides; and that she asked the Board to honor the Association's restrictions.

In rebuttal, Ronald Finelli, stated that the canopy has sided that can be rolled down; that the boats stored on other lots are covered with tarps and sit in the front of the lots; that when covered the boats look a lot like his canopy will look; and that he submitted pictures.

In rebuttal, William Harper, stated that there is not a lot of area for storage of boats; and that boat owners are to be considerate to their neighbors when storing their boats for the winter.

In rebuttal, Ronald Finelli, stated that his neighbors have allowed him to store his boat on their lot; that the boat will be moved to a different location for the winter; and that his utility trailer will also be removed from his lot.

Motion by Mr. McCabe, seconded by Mr. Mills, 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 for a 6.4-foot variance for a period of one (1) year since it will not alter the character of the neighborhood.** Vote carried 5 – 0.



**Case No. 8466 – Edward and April Thompson** – intersection of Road 508 and Road 508-A.

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

Mr. Rickard presented the case. April and Edward Thompson were sworn in and testified requesting a special use exception for a manufactured home for a medical hardship basis; that the unit will be for her grandmother; that she takes her grandmother to all of her doctor appointments; and that her grandmother is still independent enough to want her privacy.

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 special use exception be **granted for a period of two (2) years**. Vote carried 5 – 0.

**Case No. 8438 – Sea Air Village** – west of Route One, south of Sea Air Avenue, being Lot B95 within Sea Air Mobile City Mobile Home Park.

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

The Board discussed the case.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variance be **granted for the manufactured home only since it will not alter the character of the neighborhood**. Vote carried 5 – 0.

**Meeting Adjourned 9:05 p.m.**