



BOARD OF ADJUSTMENT

AGENDAS & MINUTES

MINUTES OF AUGUST 16, 2004

The regular meeting of the Sussex County Board of Adjustment was held Monday evening August 16, 2004, 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. Robinson – Assistant County Attorney, Mr. Rickard – Secretary to the Board and Mrs. Norwood – Recording Secretary.

Motion by Mr. McCabe, seconded by Mr. Mills, 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 August 2, 2004 as corrected. Vote carried 5 – 0.

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

Case No. 8735 – Edward Lee and Mary E. Webb – west of Road 504, 2,750 feet north of Road 503.

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

Mr. Rickard presented the case. Edward Webb and Mary Webb were sworn in and testified requesting a 49-foot variance from the required 150-foot lot width requirement for a parcel and a special use exception to retain a manufactured home on a parcel less than 10-acres; that they live in the existing 1993 14' x 76' unit; that they plan to replace the unit with a new double-wide; that they want to subdivide the parcel and convey the land to their friends; that their friends also plan to place a double-wide unit on the parcel; and that they prefer individual driveways, however they have no objection to a shared driveway.

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 and special use exception be **granted with the stipulations that there be a shared driveway and that the single-wide unit be replaced with a double-wide unit.** Vote carried 5 – 0.

Case No. 8736 – Walker and R. J. Lyerly – west of Road 273, east of Winner Circle, being Lot 1 within Stable Farm Development.

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

Mr. Rickard presented the case. Rocchina Lyerly was sworn in and testified requesting a 12-foot variance from the required 40-foot front yard setback requirement for a through lot; that they plan to build a screen porch and a deck; that Ryan Homes made them aware of the need for the variance; that the deck and porch will be 12-foot wide; and that she believes there may be other variances 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 since it will not alter the character of the neighborhood**.
Vote carried 5 – 0.

Case No. 8737 – Leslie and Ella A. Bonser – southeast of Road 298, northwest of Ritter Drive, being Lot 18 within William Ritter Manor Development.

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

Mr. Rickard presented the case. Ella Bonser and Gwendolyn McLaughlin were sworn in and testified requesting a 20-foot variance from the required 30-foot front yard setback requirement for a shed; that the shed has been on the lot since 1983; that she obtained a building permit; that a Certificate of Occupancy was issued for the shed; that the Zoning Inspector made her aware that it did not meet the required setback requirements; and that the Homeowner's Association is in support of the application.

Mr. Rickard stated that the office received 1 letter in support of 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. McCabe, and carried unanimously that the variance be **granted since it will not alter the character of the neighborhood and was not created by the Applicant**. Vote carried 5 – 0.

Case No. 8738 – Bruce Esham – northeast of Road 426, 1,520 feet southeast of the intersection of Road 426 and Road 424.

A variance from the front yard setback requirement for a manure shed.

Mr. Rickard presented the case. Bruce Esham was sworn in and testified requesting a 20-foot variance from the required 50-foot front yard setback requirement for a manure shed; that the setback requirements were incorrect on the building permit; that the Zoning Inspector made him aware of the encroachment; and that he measured incorrectly from the property line.

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 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 20-foot from the 50-foot front yard setback requirement**. Vote carried 5 – 0.

Case No. 8739 – Charles and Diana Columna – south of Road 74, 4,200 feet northwest of Road 447, being Lot 4 within Pine Woods Development.

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

Mr. Rickard presented the case. Charles and Diana Columna were sworn in and testified requesting a special use exception to place a manufactured home on a medical hardship basis; that they plan to place a double-wide unit on their property for her parents; that the proposed unit will measure 28' x 52'; and that due to her parents health they need to be near their parents to help with their care.

Tony Kenton was sworn in and testified in support of the application and stated that they are also his parents; and that due to health concerns he wishes to have his parents live near the family.

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 since it will have no adverse effect to the neighborhood**. Vote carried 5 – 0.

Case No. 8740 – Janice L. and David F. Erb, Sr. – intersection of Road 31 and Road 30.

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

Mr. Rickard presented the case. David Erb, Sr. was sworn in and testified requesting a special use exception to retain a manufactured home on less than five (5) acres; that the unit has been on the property since 1995; that the 1985 unit measures 14' x 70'; that the unit was placed for his mother-in-law and her companion; that his mother-in-law is deceased, however he wants to retain the unit for her companion; that he plans to subdivide the parcel and build a modular dwelling; that the unit will be removed once Mr. Smith no longer lives there; and that he will retain the portion of the property with the unit.

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 unit be removed once Mr. Smith no longer resides there and since it will have no adverse effect to the neighborhood**. Vote carried 5 – 0.

Case No. 8741 – Dolores A. Beers – south of Route 54, west of Grant Avenue, being Lot 35 within Cape Windsor Development.

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

Mr. Rickard presented the case. Charles Greenleaf was sworn in and testified requesting a 4.6-foot variance from the required 5-foot front yard setback requirement and a 12-foot variance from the required 15-foot corner side yard setback requirement for a shed; that he replaced a Rubbermaid shed that had been on the lot for eight (8) years; that the new shed actually sits closer to the manufactured home than the previous shed; that he obtained the building permit; and that he submitted pictures.

John Mears was sworn in and testified in support of the application and stated that he owns the lot adjacent to the shed; and that he is in full support of the location of the shed.

Christina Petruccelli, Faye Hartman and Edwin King were sworn in and testified in support of the application and stated that the previous shed was more intrusive than the new shed; and that the new shed looks better than the previous shed.

Nancy Hampton and Bernard Dominick were sworn in and testified in opposition to the application and stated that they represent the Homeowner's Association; that the shed violates the covenants and bi-laws; that the new shed obscures the view of the intersection; that the previous shed was considered a removable shed and was permitted; and that the Homeowner's Association denied his application for the shed.

John Hilliard was sworn in and testified in opposition to the application and stated that he is also on the Board for the Homeowner's Association; that they are trying to update the development; and that he owns the adjacent property.

By a show of hands, 5 parties appeared in support of the application.

By a show of hands, 5 parties appeared in opposition to the application.

Motion by Mr. Mills, seconded by Mr. Hudson, 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 case be **tabled until September 13, 2004**. Vote carried 5 – 0.

Case No. 8742 – Cheryl Ciesa – north of Road 234B, 153 feet west of Road 233.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Cheryl Ciesa was sworn in and testified requesting a 1-foot variance from the required 10-foot side yard setback requirement for a dwelling; that she thought a red flag in her neighbors yard was a property marker; that she advised her builder that the red flag was a property marker; that the survey done after construction showed the encroachment; that her neighbors are in support of the application; and that other variances have been granted 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 case be **left open until the Applicant can submit a survey and provide the builder's address**. Vote carried 5 – 0.

Case No. 8743 – Telemon Corp. – northeast of Road 318, northeast of Road 86.

A special use exception to expand an existing day care facility.

Mr. Rickard presented the case. Doris Gonzalez was sworn in and testified requesting a special use exception to expand an existing day care facility; that they currently care for 70 children; that they plan to increase the number of children by 90 reaching a total of 160 children; that they currently serve four (4) school districts; that they have been awarded funding for five (5) more classrooms; and that the hours of operation are 7:30 a.m. to 5:30 p.m.

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 for the increase of 90-children since it will not alter the character of the neighborhood.** Vote carried 5 – 0.

Case No. 8744 – Telemon Corp. – north of Route 9, west of unnamed road, being Lots 12 and 13, Block 4 within Belletown.

A special use exception to operate a day care facility.

Mr. Rickard presented the case. Doris Gonzalez was sworn in and testified requesting a special use exception to operate a day care facility; that a 40' x 30' building will be used for the day care facility; that a church is allowing the corporation to use the property for the day care; that the Cape Henlopen School District has approved the site; that the facility will care for 34-children; that there will be morning and afternoon classes that consist of 17-children at a time; and that the hours of operation are 7:30 p.m. to 5:30 p.m.

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 special use exception be **granted for 34-children and the hours of operation from 7:30 a.m. to 5:30 p.m.** Vote carried 5 – 0.

Case No. 8745 – Richard and Raquella Wilson – north of Road 534, 200 feet west of Kenmore Street.

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

Mr. Rickard presented the case. Raquella Wilson was sworn in and testified requesting a 10,228-square-foot variance from the required 32,670-square-foot requirement and a 19.42-foot variance from the required 150-foot lot width requirement for a parcel; that she wants to subdivide a parcel and build a single-family dwelling; that she has a letter of no objection from DelDOT; that the horseshoe drive already exists; that the subdivision of the property will split the drive and each lot will have its own driveway; and that they have no plans of any further development.

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 since it will not alter the character of the neighborhood and will have no substantial effect to the adjacent properties.** Vote carried 5 – 0.

Case No. 8746 – Sea Air Village – south of Route One, west of Center Avenue, being Lot D83 within Sea Air Mobile City Mobile Home Park.

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

Mr. Rickard presented the case. Kevin Bennett was sworn in and testified requesting a 3-foot variance from the required 20-foot separation requirement between units in a mobile home park; that he has removed the existing unit; that the proposed unit measures 16' x 76'; that an addition on Lot D85 prevents him from meeting the required setback; and that the adjacent 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. Mills, seconded by Mr. Hudson, and carried unanimously that the variance be **granted for a 3-foot variance on each side of the unit since it will not alter the character of the neighborhood and is a minimum variance.** Vote carried 5 – 0.

Case No. 8747 – Margaret Carbone – south of Route One, west of Sea Air Avenue, being Lot A-88 within Sea Air Mobile City Mobile Home Park.

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

Mr. Rickard presented the case. Margaret Carbone was sworn in and testified requesting a 5.2-foot variance from the 20-foot separation requirement between units and a 10.1-foot variance from the 20-foot separation requirement between units in a mobile

home park; that she replaced her shed; that she placed the new shed in the same location as the previous shed; that the Zoning Inspector made her aware of the encroachment; that her nephews placed the shed; and that her 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. Mills, seconded by Mr. McCabe, and carried unanimously that the variances be **granted since it will not alter the character of the neighborhood**.
Vote carried 5 – 0.

Case No. 8748 – James and Constance Green – northeast of Route One, south of East Isaacs Drive, being Lot 22 within Midway Park Development.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Este Class, Connie Green and James Green were sworn in and testified requesting a 19-foot variance from the required 30-foot front yard setback requirement for a proposed manufactured home; that the Applicant recently sold their unit on Lot 23; that they plan to place a double-wide manufactured home on Lot 22; that they are trying to save 4 large trees in the back of the lot; that a survey was done to show the average front yard setback for the street; that an 8-foot wide porch will face the street; that they would like to line the new unit on Lot 22 with the existing unit on Lot 23; and that they submitted visuals.

Peter Hallack and Bob Neel were sworn in and testified in opposition to the application and stated that they wish to have the proposed unit line up with the other homes on the street; that the porch on the existing unit was added by the previous owners; and that they would have no objection to the application as long as the unit is in line with the existing dwellings.

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

Mr. Rickard stated that the office received 2 letters in opposition and a petition with 16-signatures in opposition to the application.

Motion by Mr. Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variance be **granted due to the uniqueness of the lot and that it will not alter the character of the neighborhood since it is a minimum variance due to the average**.
Vote carried 5 – 0.

Case No. 8749 – Arthur Scheetz and Nancy E. Levensgood – southeast of Road 298, northwest of Ritter Drive, being Lot 16, Section 1 within William Ritter Manor Development.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Arthur Scheetz and Nancy Levensgood were sworn in and testified requesting a 6-foot variance from the 30-foot required front yard setback requirement; that they placed the garden shed 8-years ago; that the shed is a major part of the landscape; that the road curves and creates a unique shape to their lot; that the Zoning Inspector made them aware of the encroachment; and that they submitted pictures.

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 case be **left open for the Applicant to provide a survey**. Vote carried 5 – 0.

OTHER BUSINESS

Case No. 8630 – Jim Lee, Inc. – west of Road 601, 0.72 mile south of Road 16, being Lot 3.

A special use exception to retain a manufactured home on a parcel and a variance from the front yard setback requirement.

Mr. Rickard read the letter to the Board requesting permission to reapply.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the Applicant be **allowed to reapply and pay the filing fee**. Vote carried 5 – 0.

Meeting Adjourned 9:25 p.m.