



# BOARD OF ADJUSTMENT

## AGENDAS & MINUTES

### MINUTES OF August 4, 2008

The regular meeting of the Sussex County Board of Adjustment was held on Monday August 4, 2008, 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. Dale Callaway, Mr. Ronald McCabe, Mr. John Mills, Mr. Brent Workman and Mr. Jeff Hudson, with Mr. Richard Berl – Assistant County Attorney and staff members, Mr. Norman Rickard and Mrs. Kelly Passwaters – 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 July 21, 2008 meeting 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.

### PUBLIC HEARINGS

**Case No. 10206 – Steven D. Ward-** south of Route 22, south of East Harbor Drive, being Lot 255 within White House Beach Mobile Home Park.

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

Mr. Rickard presented the case. Steven Ward was sworn in and testified requesting a 0.6-foot variance from the required 20-foot separation requirement between units in a mobile home park and a 7.5-foot variance from the required 20-foot separation requirement between units in a mobile home park; that he placed a 24' x 66' manufactured home on the property; that he had the property surveyed; that according to the survey the manufactured home would fit and meet setback requirements; and that once he received the final placement survey the violations were discovered.

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 application be **tabled for clarification from the office**. Vote carried 5 – 0.

**Case No. 10207 – Madhu Realty LLC**- northwest of Route 36, 335 feet from the intersection of Route 36, Route 42 and Road 619.

Mr. Rickard presented the case. Rakesh Patel and Angelo Abbate were sworn in and testified requesting a 27.78-foot variance from the required 60-foot front yard setback requirement; that the property is a through lot; that he was given the wrong front yard setback requirements; that he is not doing a mixed-use building; and that it will now be a liquor store.

Christina Morton was sworn in and testified in opposition to the application and stated that she wants to know why he would be approved for a variance if it were not going be a mixed-use building.

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

The Board found that 1 party appeared in opposition to the application.

Motion by Mr. McCabe, seconded by Mr. Workman, and carried unanimously that the variances be **granted since it will not alter the essential character of the neighborhood and since it is the minimum variance to afford relief**. Vote carried 5 – 0.

**Case No. 10208 – Ellen L. Rayne**- east of Road 386, south of McCabe Court, being Lots 3 and 4 within McCabe Subdivision.

A special use exception to connect two (2) manufactured homes to make one (1) unit.

Mr. Rickard presented the case. Ellen Rayne and Constance Satchell were sworn in and testified requesting a special use exception to attach two (2) manufactured homes together to make one unit; that they purchased the manufactured home in April; that Lot 3 is too small to place the manufactured home on; that they would like to combine the two manufactured homes into one for larger living space; that it will have a block foundation and A-Frame roof; and that it will only have one kitchen.

Mr. Rickard stated the office received 5 letters in favor of the application.

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

Motion by Mr. McCabe, and seconded by Mr. Workman, and carried unanimously that the special use exception be **granted since it will not alter the**

**essential character of the neighborhood and that the home be on block foundation and have an A-Frame roof.** Vote carried 5 – 0.

**Case No. 10209 – Donald “Jake” and Doris Marine-** west of Road 62, 3,765 feet north of Road 447 (Johnson Road).

A variance from the setback requirements for a stable and manure sheds.

Mr. Rickard presented the case. Doris Marine and Steven Adkins were sworn in and testified requesting a 142.3-foot variance from the required 200-foot requirement for a stable, a 52.8-foot variance from the 200-foot requirement for a stable, a 187.3-foot variance from the 200-foot requirement for a manure shed, a 138-foot variance from the required 200-foot requirement for a manure shed, and a 99.7-foot variance from the 200-foot requirement for a stable; that they are in the process of selling the chicken farm portion; that they have a horse training facility on the property; and that they received conceptual approval for the subdivision.

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 variances be **granted since it will not alter the essential character of the neighborhood and since it enables reasonable use of the property.** Vote carried 5 – 0.

**Case No. 10210 – Coach/Kent Sign Company-** southeast of Road 271, 860 feet northeast of Route One.

A variance for an additional wall sign.

Mr. Rickard presented the case. Kim Diehl and Lynn Clifton were sworn in and testified requesting a variance for an additional wall sign on the tower; that there are currently three (3) signs on the opposite tower; that the sign will measure 24.5-square feet; and that they have received approval from Tanger Outlet.

The Board found that one 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 be **granted since it will not alter the essential character of the neighborhood and since it is the minimum variance to afford relief.** Vote carried 5 – 0.

**Case No. 10211 – Edward S. Machulski-** west of Route 24, 560 feet north of Road 299, being Lots 12 and 14 within Steele Land Development Co.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Edward and Nancy Machulski were sworn in and testified requesting a 41.47-foot variance from the required 60-foot front yard setback requirement; that they would like to extend the existing deck an additional 6-foot; that they would like to construct a roof over the deck; and that currently the deck measures 8' x 30'.

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 enables reasonable use of the property and since it is the minimum variance to afford relief.** Vote carried 5 – 0.

**Case No. 10212 – Tim Sopko-** intersection of Route 18 and Route 261.

A special use exception to place an off premise sign and a variance from the maximum square footage requirement for a sign.

Mr. Rickard presented the case. Tim Sopko was sworn in and testified requesting a special use exception to place an off premise directional sign and a 52-square foot variance from the required 6-square foot per side for a directional sign; that he would like to place the sign to attract potential customers; that he would sign a 12 month lease with the property owner with the ability to extend; and that the sign will measure 32-square foot on each side.

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 variance and special use exception be **granted since it will not alter the essential character of the neighborhood and since it is the minimum variance to afford relief.** Vote carried 5 – 0.

**Case No. 10213 – Katherine Chambers-** east of Bald Eagle Road, south of Basin Street, being Lots 115 and 116 within Bay Vista development.

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

Mr. Rickard presented the case. Katherine Chambers was sworn in along with Tim Willard, Attorney, and testified requesting a 12.2-foot variance from the required 20-foot rear yard setback requirement and a 5.1-foot variance from the required 30-foot front yard setback requirement; that the lots are unique in size; that the lot measures 25' x 100'; that she received a temporary certificate of occupancy; and that it would cause a hardship to remove a portion of the home.

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

The Board found that 1 party appeared in opposition to the application.

Motion by Mr. McCabe, 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. Workman, and carried unanimously that the variances be **granted since it will not alter the essential character of the neighborhood and since it is a small lot**. Vote carried 5 – 0.

**Case No. 10214 – Gerald Jordan-** south of Route 54, east of undefined gravel drive, being Lot 1 within Delcy Mobile Home Park.

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

Mr. Rickard presented the case. Gerald Jordan was sworn in and testified requesting a 11.3-foot variance from the required 20-foot separation requirement between units and a 4.3-foot variance from the 20-foot separation requirement between units; that they will be removing the existing home; that they would like to replace the existing home with a new manufactured home; that it will measure 14' x 48'; and that it will be placed within the same footprint.

The Board found that 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 be **granted since it is unique and since it will not alter the essential character of the neighborhood**. Vote carried 5 – 0.

**Case No. 10215 – Thomas and Catherine Ferretti-** south of Route One, north of Atlantic Avenue, being Lot E36 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. Thomas and Catherine Ferretti were sworn in and testified requesting a 7-foot variance from the required 20-foot separation requirement between units; that they would like to make their existing deck into a 12' x 24' deck; and that the wood patio will be removed.

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 since it will not alter the essential character of the neighborhood and since it is the minimum variance to afford relief.** Vote carried 5 – 0.

**Case No. 10216 – Leo and Barbara Methven-** west of Road 530, 350 feet north of Arnett Road.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Leo Methven was sworn in and testified requesting a 15-foot variance from the required 40-foot front yard setback requirement; that he placed a shed on his property; that Oakcrest Sheds told him that a shed permit was not required; that the shed was placed on the most level part of the property; that the septic is on the opposite side of the property; and that the shed is needed for storage.

Mr. Rickard stated 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. McCabe, seconded by Mr. Workman, and carried unanimously that the variance be **granted since there is no other place to put the shed, since it will not alter the essential character of the neighborhood and since there was no opposition.** Vote carried 5 – 0.

**Case No. 10217 – Michael and Kimberly Rosso-** east of Road 302, being Lot 6.

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

Mr. Rickard presented the case. Michael and Kimberly Rosso were sworn in and testified requesting a 10-foot variance from the required 20-foot rear yard setback requirement and a 5-foot variance from the required 15-foot side yard setback requirement; that they have already constructed a pole barn on the property; that it measures 30' x 50'; and that he laid out the location of the pole building.

Mr. Rickard stated 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. McCabe, seconded by Mr. Hudson, and carried unanimously that the variances be **granted since there was no opposition and since it will not alter the essential character of the neighborhood.** Vote carried 5 – 0.

**Case No. 10218 – R. Randall and Jane Wallis-** east of Road 275, south of Mute Swan Lane, being Lot 2 within Summercrest development.

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

Mr. Rickard presented the case. Pam and Tom McDonald were sworn in and testified requesting a 5-foot variance from the required 30-foot front yard setback requirement for a through lot; that the property is a through lot; that the building permit

was issued with the wrong setback requirements on it; and that the owner was not aware the parcel is considered a through lot.

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 variance be **granted since it will not alter the essential character of the neighborhood, since it is a through lot and since the building permit was issued with the wrong setback requirements.** Vote carried 5 – 0.

**Case No. 10219 – Christine Brown-** east of Road 275, south of Mute Swan Lane, being Lot 4 within Summercrest development.

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

Mr. Rickard presented the case. Pam and Tom McDonald, who were sworn in at a previous hearing, testified requesting a 3-foot variance from the required 30-foot front yard setback requirement for a through lot; that the parcel is a through lot; that the building permit was issued with the wrong setback requirements on it; and that the deck measures 12' x 24'.

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 since it will not alter the essential character of the neighborhood, since it is a through lot and since the wrong setback requirements were issued on the building permit.** Vote carried 5 – 0.

**Case No. 10220 – James E. and Ruth Bailey-** east of Road 437.

A special use exception to retain a manufactured home on a medical hardship basis and a special use exception to connect two (2) manufactured homes to make one (1) unit.

Mr. Rickard presented the case. James and Ruth Bailey were sworn in and testified requesting a special use exception to retain a manufactured home on a medical

hardship basis and a special use exception to connect two (2) manufactured homes to make one (1) unit; that their daughter will live in the manufactured home; and that the two (2) units being combined would allow for more living space for their daughter and her children.

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 exceptions be **granted for a period of 2 years since it will not substantially affect adversely the uses of adjacent and neighboring properties.** Vote carried 5 – 0.

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**The Board took a 5-minute recess**

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### **OLD BUSINESS**

**Case No. 10141 & 10199 – Edwin F. Jacobsen-** east of Road 357, east of Marshy Hope Way, being Lot 30 within W. Glyn Newton's development.

A special use exception to place a windmill and a variance from the maximum height requirement.

The Board discussed the cases, which have been tabled since July 21, 2008.

Motion by Mr. Mills, seconded by Mr. Hudson and carried unanimously that the special use exception and variance be **granted since it will not substantially affect adversely the uses of adjacent and neighboring properties, since it is the minimum variance to afford relief and since it will not alter the essential character of the neighborhood.** Vote carried 4 – 0. Mr. McCabe did not participate in the voting.

**Case No. 10142 & 10200- Edwin F. Jacobsen-** east of Road 357, west of Marshy Hope Way, being Lot 41 within W. Glyn Newton's development.

A special use exception to place a windmill and a variance from the maximum height requirement.

The Board discussed the cases, which have been tabled since July 21, 2008.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the cases be **tabled for clarification to where the opposition lives.** Vote carried 5 – 0.

**Case No. 10202 – Barbara Watson-** east of Route One, 990 feet north of Road 270.

A variance from the minimum lot width and square footage requirements for parcels.

The Board discussed this case, which has been tabled since July 21, 2008.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variance be **granted since it will not alter the essential character of the neighborhood, that it have a combined driveway and that all structures meet setback requirements once it is subdivided.** Vote carried 5 – 0.

**Meeting Adjourned @ 9:20 p.m.**