



# BOARD OF ADJUSTMENT

## AGENDAS & MINUTES

### MINUTES OF June 2, 2008

The regular meeting of the Sussex County Board of Adjustment was held on Monday June 2, 2008, at 7:00 p.m. in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 7:05 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 May 19, 2008 at the June 16, 2008 meeting. 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. 10155 – Nancy Spicer Reilly-** north of Route 54, west of dirt/stone road, being Lot 5 within Mason-Dixon Court Mobile Home Park.

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

Mr. Rickard presented the case. Nancy Spicer Reilly was sworn in and testified requesting a 2-foot variance from the required 20-foot separation requirement between manufactured homes on Lot 5 and Lot 6 and a 9-foot variance from the required 20-foot separation requirement between manufactured homes on Lot 4 and Lot 5; that Lot 5 is a vacant lot; that the mobile home park is non-conforming; that she would like to place a new manufactured home on Lot 5; and she feels it would improve the appearance of the park.

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 since the lot would not be usable if a variance was not approved and since it meets the standards for granting a variance.** Vote carried 5 – 0.

**Case No. 10156 – Ronald E. Sigel-** north of Road 358, northwest of Possum Road, being Lot 164 and ½ Lot 165, within Bay Shore Mobile Home Park.

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

Mr. Rickard presented the case. Ronald Sigel was sworn in and testified requesting a 460.50-square foot variance from the required 35 percent lot coverage requirement; that he would like to construct a enclosed porch; that the porch would measure 8' x 45'; that he would also like to place a 6' x 8' shed; that he received approval from the park; and that other variance 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. 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 the park approved it.** Vote carried 5 – 0.

**Case No. 10157 – Pamela McMillan-** east of Road 270A, corner of Shady Ridge Drive and Munchy Court, being Lot 31, Section I within Shady Ridge development.

A variance from the side yard setback requirement for a corner lot.

Mr. Rickard presented the case. Pamela McMillan was sworn in and testified requesting a 7-foot variance from the required 15-foot side yard setback requirement; that she placed an in-ground swimming pool on the property; that she received a violation notice; that it is a corner lot; that she thought the property line went to the street; and that she obtained a building permit.

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

Motion by Mr. McCabe, seconded by Mr. Hudson, and carried unanimously that the case be taken under advisement.

At the conclusion of the public hearings, the Chairman referred back to this case. Motion by Mr. Hudson, seconded by Mr. Mills, and carried unanimously that the

variance be **granted since it meets the standards for granting a variance.** Vote carried 5 – 0.

**Case No. 10158 – Jay D. Wingate-** intersection of Route One and Road 265, east of Red Mill Drive, being within Mill Pond Acres development.

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

Mr. Rickard presented the case. Jay Wingate was sworn in along with Gene Bayard, Attorney, and testified requesting an 8,030-square foot variance from the required 20,000-square foot requirement for a lot; that the lot was originally intended for a drainage easement; that the lot is 11,970-square feet; that it is served with central water and sewer; that the lot has been bulk headed; and that without a variance the lot is not buildable.

Mr. Rickard stated the office received 3 letters in support of the application.

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

Mr. Rickard stated the office received 1 letter in opposition to 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 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. 10159 – Barry and Waneta Chaffinch-** south of Road 629, 900 feet west of Road 613.

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

Mr. Rickard presented the case. Barry and Waneta Chaffinch were sworn in and testified requesting a special use exception to retain a manufactured home on a medical hardship basis; that the special use exception was approved in January 2003; that they received a letter stating that they needed to reapply; that the manufactured home measures 12' x 55' and that it is for her father.

Elizabeth Marvel was sworn in and testified in support of the application and stated that she owns the adjoining parcel; that she has been a neighbor for 24 years; and that she supports the request.

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. Hudson, seconded by Mr. Mills, and carried unanimously that the special use exception 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.

**Case No. 10160 – Marlin Schrock-** north of Route 16, 1,017 feet east of Road 601.

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

Mr. Rickard presented the case. Marlin Schrock was sworn in and testified requesting a special use exception to place a manufactured home on a medical hardship basis; that the hardship is for both of his parents; that the application was approved in 2001; and that the manufactured home measures 14' x 70'.

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

**Case No. 10161 – Allen Riley-** south of Route 24, east of Brandy Circle, being Lot 4 and part of Lot 3 within Brandywood development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Allen Riley was sworn in and testified requesting a 10.7-foot variance from the required 15-foot side yard setback requirement; that he would like to construct a 14' x 30' attached garage; that he has owned the property since 1984; that the proposed garage would join the existing garage; and that he received approval from the Homeowners Association.

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 is an odd shaped lot and since it will not alter the essential character of the neighborhood.** Vote carried 5 – 0.

**Case No. 10162 – David Lawrence-** south of Route 54, south of Garfield Avenue, being Lot 16 within Edgewater Acres development.

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

Mr. Rickard presented the case. Randall Pratt was sworn in and testified requesting a 10-foot variance from the required 30-foot front yard setback requirement for a dwelling and a 10-foot variance from the required 20-foot rear yard setback for a deck and spiral stairs; that the property was purchased in March 2008; that it is a narrow and shallow lot; that they would like to raise the house for flood purposes; that the dwelling will be on pilings; 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. 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 other variances have been granted.** Vote carried 5 – 0

**Case No. 10163 – A.P. Croll and Clair T. Croll-** north of Route 9, 200 feet east of Road 320.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Albert Croll, III and Kenneth Christenbury were sworn in and testified requesting a 11-foot variance from the required 60-foot front yard setback requirement; that the existing office structure is in bad shape; that they would like to demolish the existing building; that the existing office building is located less than 25-feet from the property line; that Del-Dot requesting a 20-foot dedication; and that if the 20-feet did not have to be dedicated a variance would not be needed.

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.** Vote carried 5 – 0.

**Case No. 10164 – Richard, Lorraine and Jessie Culley-** east of U.S. Route 13A, 715 feet north of Road 451.

A variance from the minimum lot size requirement to place a manufactured home.

Mr. Rickard presented the case. Lorraine Culley and Cathy Walker were sworn in and testified requesting a 1,515-square foot variance from the required 32,670-square foot requirement for a parcel; that the property was surveyed several years ago; that they thought the property was  $\frac{3}{4}$  Acre; and that they have already purchased a manufactured home.

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 is an odd shaped lot and since it is the minimum variance to afford relief**. Vote carried 5 – 0.

**Case No. 10165 – Tanger Factory Outlet Center, Inc.-** northeast corner of Route One and Road 271.

A variance for additional wall signs.

Mr. Rickard presented the case. Darlene Matthes was sworn in and testified requesting a variance for 2 additional wall signs; that three (3) sides of the store face different directions; that currently the store has two (2) wall signs; that the store is 8,000-square feet; and that other stores have 2 or 3 signs.

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**. Vote carried 5 – 0.

**Case No. 10166 – Joan Wisniewski-** north of Route 58B, east of Oliver Drive, being Lot TH-34 within Bayview Landing development.

A variance from the rear yard setback requirement.

Mr. Rickard presented the case. Gerald Schaeffer was sworn in and testified requesting a 10-foot variance from the required 20-foot rear yard setback requirement; that he would like to construct a 10' x 16' screen porch and a 8' x 16' deck; that he has received verbal approval from the Homeowners Association; and that the property is located adjacent to open space.

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 **tabled until a letter is received from the Homeowners Association**. Vote carried 5 – 0.

**Case No. 10167 – Irma P. Curtis Codey-** south of Route 54, east of Grant Avenue, being Lot 23, Block 6 within Cape Windsor development.

A variance from the rear yard setback requirement.

Mr. Rickard presented the case. Irma Codey was sworn in and testified requesting a 5-foot variance from the required 20-foot rear yard setback requirement; that the lot is undersized; that it is for a new home; and that she feels it will not alter the essential character of the neighborhood.

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**. Vote carried 5 – 0.

**Case No. 10168 – Vineyards Communities, LLC-** north of Route 9, 3,700 feet west of Route One.

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

Mr. Rickard presented the case. Wendy Baker and Jeff Clark were sworn in and testified requesting a special use exception to place a manufactured home type structure as a sales office; that the ground breaking for the project is planned for June 11, 2008; that they would like to use a manufactured home as a sales office; that the manufactured home will measure 24' x 26'; that they would like to use it for 5 years; that the manufactured home is used and will be renovated; and that it will be landscaped.

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

**Case No. 10169 – Louis G. Thibault, Jr.-** southeast of Road 421, 1, 375 feet north of Road 424.

A special use exception to place a windmill.

Mr. Rickard presented the case. Louis Thibault was sworn in and testified requesting a special use exception to place a windmill; that he would like to place two (2) windmills on his property; that they will measure 40-feet in height; that he would like to reduce his electric bill; and that he is surrounded by woods.

Gregory Menoche was sworn in and testified in favor of the application and stated that he feels it would not affect the property value; that he has one on his property; that it is very quiet; and that it does not take up a lot of room on the property.

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. Mills, seconded by Mr. Hudson, and carried unanimously that the special use exception be **granted since it will not substantially affect adversely the uses of adjacent and neighboring properties.** Vote carried 5 – 0.

### **Old Business**

**Case No. 9886 – Avelina Kramedas-** west of Route One, west of Salt Hat Drive, being Lot 5 within Wharton's Cove Garth development.

A variance from the side yard setback requirement.

The Board discussed the case, which has been tabled since July 16, 2007.

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

**Meeting Adjourned @ 9:05 P.M.**