



Board of Adjustment

Agendas & Minutes

MINUTES OF MARCH 19, 2007

The regular meeting of the Sussex County Board of Adjustment was held on Monday, March 19, 2007, 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, Mr. Norman Rickard, and Mrs. Jennifer Norwood – Recording Secretary.

Motion by Mr. Mills, seconded by Mr. Hudson, 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 February 26, 2007 and the Minutes of March 5, 2007 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.

Case No. 9780 – Paul Edward and Helen A. May – southeast of Bayshore Drive, north of Carolina Avenue, being Lot 21, Block G, within Broadkill Beach.

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

Mr. Rickard presented the case. Terrence Babbie and Helen May were sworn in and testified requesting an 18-foot variance from the required 30-foot front yard setback requirement, a 6.6-foot variance from the required 10-foot side yard setback requirement and a 0.5-foot variance from the required 10-foot side yard setback requirement for a proposed dwelling; that the lot is very narrow; that there have been similar variances granted in the area; that the proposed septic system will cover a large portion of the lot; that the variance will enable reasonable use of the property; that an adjacent neighbor is opposed to the variances on his side; that the Applicant is interested in purchasing a portion of his property to bring the proposed dwelling into compliance; that the adjacent property on the west side is not buildable; and that the variance will not alter the character of the neighborhood.

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

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

Mr. Rickard stated that the office received 1 letter in opposition to the application.

Motion by Mr. McCabe, seconded by Mr. Workman, and carried unanimously that the case be **tabled until April 2, 2007 to allow the office to report on whether the adjacent property is buildable and for the Applicant to report on the land acquisition.** Vote carried 5 – 0.

Case No. 9781 – Gemcraft Homes – north of Pine Run, being Lot 96 within Oakmont Estates development.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. William Carey was sworn in and testified requesting a 2.4-foot variance from the required 30-foot front yard setback requirement for an existing dwelling; that there was an error when measuring; that the property line curves with the street; that the engineer made a mathematical error when staking out the dwelling; that to comply with the setback requirement the attached garage would have to be removed; that the encroachment is not out of character with the neighborhood; and that the encroachment was not discovered until the construction was complete.

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 since it is the minimum variance to afford relief.** Vote carried 5 – 0.

Case No. 9782 – Leonardo Rodriguez – east of Road 381, 430 feet north of Route 54.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Leonardo Rodriguez was sworn in and testified requesting a 20-foot variance from the required 60-foot front yard setback requirement; that he wants to replace an existing building; that the proposed building will be within the same footprint as the existing building; that the existing building complied with the setback requirements; that the setback requirements have increased since the building was erected; and that he discovered the change when he obtained his building permit.

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

Case No. 9783 – Dee Cross – west of U.S. Route 13, 293 feet south of U.S. Route 13A.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Dee Cross was sworn in and testified requesting a 45-foot variance from the required 60-foot front yard setback requirement for a proposed detached shed; that the proposed shed will measure 10' x 14'; that the lot is unique due to the two front yard setback requirements; that they have been granted variances for signs and for the existing building; and that she 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. Workman, and carried unanimously that the variance be **granted since it will not alter the character of the neighborhood**.
Vote carried 5 – 0.

Case No. 9784 – Gail B. White – south of Route 20.

A special use exception for a daycare center.

Mr. Rickard presented the case. Gail B. White was sworn in and testified requesting a special use exception for a daycare center; that she plans to build a daycare on the church property; that the hours of operation will be from 6:00 a.m. to 6:30 p.m., 5-days a week; that the ages of the children will be 6-weeks old to 12-years old; that there will be approximately 140 to 190 children; and that there is adequate parking.

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

Case No. 9785 – Barry A. and Mary Jane Swisher – north of Road 358, east of Brant Road, being Lot 260 within Bayshore Mobile Home Park.

A variance from the separation requirement between units in a mobile home park and a variance from the maximum allowable lot coverage in a mobile home park.

Mr. Rickard presented the case. Barry and Mary Jane Swisher were sworn in and testified requesting a 2.5-foot variance from the required 20-foot separation requirement between units in a mobile home park and a 167-square-foot variance from the required 35% maximum allowable lot coverage in a mobile home park; that the porch will measure 8' x 35'; that the proposed shed will measure 8' x 16'; that they requested a variance through the mobile home park; and that the neighbors have no objection to the application.

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 character of the neighborhood and since there have been numerous variances granted in the mobile home park.** Vote carried 5 – 0.

Case No. 9786 – Cape Henlopen School District – intersection of Kings Highway and Gills Neck Road.

A variance from the maximum height requirement.

Mr. Rickard presented the case. Edwin Tennefoss was sworn in and testified requesting a 10.7-foot variance from the required 42-foot maximum height requirement for a proposed high school; that the entrance of the proposed high school will exceed the height requirement; that they are trying to create a prominent entrance to the school; that the portion of the building that exceeds the height requirement is only for appearance; and that he submitted drawings.

By a show of hands 1 party appeared in support of the application.

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

Case No. 9787 – Eleanor Engle – north of Road 225A, intersection west of Road 38C, being Lots 101, 102 and part of 87.

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

Mr. Rickard presented the case. Eleanor Engle was sworn in with Larry Fifer, Attorney, present on behalf of the application, and testified requesting a 14.8-foot variance from the required 40-foot front yard setback requirement and a 0.7-foot variance from the required 15-foot side yard setback requirement for an existing dwelling; that the Applicant purchased the property in May 1986; that the Applicant placed a Nanticoke Home on the property in 1986; that the Certificate of Compliance was issued in 1986; that the encroachment was discovered by a survey done for settlement; and that the Applicant was not aware of the encroachment.

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 variances be **granted since it will not alter the character of the neighborhood**.
Vote carried 5 – 0.

Case No. 9788 – Leo Brady – south of Road 360, south of Bethany Loop, being Lot 377 within Salt Pond Phase I.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Linda Regan was sworn in and testified requesting a 5.11-inch variance from the required 10-foot side yard setback requirement for an existing dwelling; that the Applicant extended the porch in 2003; that the Certificate of Compliance was issued in 2003; and that a survey done for settlement is when the encroachment was discovered.

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 variance be **granted since it will not alter the character of the neighborhood**.
Vote carried 5 – 0.

Case No. 9789 – Frank and Elva Bennett – north of Yacht Basin Road, being Lot 2 within Ray's Acres development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Frank Bennett, Jr. and Elva Bennett were sworn in and testified requesting a 5.5-foot variance from the required 10-foot side yard setback

requirement for a proposed dwelling; that the lot is only 60-foot wide; that she wants the dwelling to be placed on the lot so the front door faces the road and the back door faces the backyard; that they are not aware of any objection from the neighbors; that he is her son and owns the adjacent lot; and that the other dwellings in the area are older and 2-story structures.

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

Case No. 9790 – Miken Builders, Inc. – west of Belle Road, 210 feet north of Hassell Avenue, being Lot 28 within Bay View Park development.

A variance from the rear yard setback requirement.

Mr. Rickard presented the case. Marvin Blackburn was sworn in and testified requesting a 5-foot variance from the required 10-foot rear yard setback requirement for an existing deck; that they built a ground level deck for the property owner; that the deck is 8-inches in height; that the decking allows the owner easier access around their property; and that they have a variance pending for the side yard setback requirement.

Dick Fox was sworn in and testified in opposition to the application and stated that he attended the previous hearing; that he represents the Homeowner's Association; that the Homeowner's Association opposes all variances; and that they feel this was an honest mistake and a minimal variance request.

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

Motion by Mr. Mills, seconded by Hudson, and carried unanimously to incorporate the Old Business Case No. 9749. Vote carried 5 – 0.

Motion by Mr. McCabe, seconded by Mr. Workman, and carried unanimously that the variance be **granted since it is the minimum variance to afford relief for Case No. 9790**. Vote carried 5 – 0.

Case No. 9791 – William and Rita Schrider – Cleveland Avenue, being Lot 33, Block 4 within Cape Windsor development.

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

Mr. Rickard presented the case. Charles Cohen was sworn in and testified requesting a 5-foot variance from the required 20-foot rear yard setback requirement and an 8.2-foot variance from the required 10-foot side yard setback requirement for a proposed manufactured home; that the proposed location of the unit is in character for the development; that the side yard variance allows room for a driveway; and that the Homeowner's Association supports the application.

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 variance be **granted since it will not alter the character of the neighborhood and since there are numerous variances granted in the development.** Vote carried 5 – 0.

OLD BUSINESS

Case No. 9749 – Miken Builders, Inc. – west of Belle Road, 210 feet north of Hassell Avenue, being Lot 28 within Bay View Park development.

A variance from the side yard setback requirement.

The Board discussed the case which has been tabled since February 26, 2007.

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

OTHER BUSINESS

Case No. 8961 – Resort Broadcasting Co. – 300 feet east of Road 288, 3,600 feet south of Road 287.

A special use exception for a special height exception for a 500 foot radio broadcasting tower.

Mr. Rickard read a letter from the Applicant requesting a time extension.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to **approve the time extension for a period of one (1) year beginning March 19, 2007.** Vote carried 5 – 0.

Case No. 9435 – Alice C. Fagans and Ruth Ann Mattingly – south of Alabama Avenue, 300 feet east of North Bayshore Drive, being Lot 5, Block I.

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

Mr. Rickard read a letter from the Applicant requesting a time extension.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously to **approve the time extension for a period of one (1) year**. Vote carried 5 – 0.

Meeting Adjourned 8:22 p.m.