



## *Board of Adjustment*

### Agendas & Minutes

#### MINUTES OF MAY 21, 2007

The regular meeting of the Sussex County Board of Adjustment was held on Monday May 21, 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 and staff members Mr. Norman Rickard, Mrs. Melissa Thibodeau, Mrs. Shari Collins, Mr. Russell Warrington, and Ms. Kelly Eaton – Recording Secretary.

Motion by Mr. Hudson, seconded by Mr. McCabe, and carried unanimously to approve the Revised Agenda. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of May 7, 2007. 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. 9836 – Eddie and Cynthia Street-** east of Road 279, south of Holly Drive, being Lot E26 within West Bay Mobile Home Park.

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

Mrs. Collins presented the case. Eddie and Cynthia Street were sworn in and testified requesting a 7-foot variance from the required 20-foot separation requirement from the side yard and rear yard setback requirement; that they are purchasing a brand new manufactured home; that the shed measures 10' x 10'; that the shed would encroach the setback; 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. Workman, 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 the case. Motion by Mr. McCabe, seconded by Mr. Hudson, and carried unanimously that the variances be **granted**. Vote carried 5 – 0.

**Case No. 9837 – Richard and Gertrude Gray-** south of Route 54, west of Tyler Avenue, being Lot 37, Block 5 within Cape Windsor development.

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

Mrs. Collins presented the case. Richard Gray was sworn in and testified requesting a 8-foot variance from the required 10-foot side yard setback requirement and a 5-foot variance from the required 20-foot rear yard setback requirement; that the lot measures 50' x 90'; that the new manufactured home will measure 28' x 64'; and that the applicant received an approval letter from the HOA.

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 variances be **granted since it is the minimum variance to afford relief and that it is a unique lot.** Vote carried 5 – 0.

**Case No. 9838 – Frank and Mary Miranda-** west of Road 357-A, being Lot 3 within Laura Short development.

A variance from the front yard setback requirement.

Mrs. Collins presented the case. Frank Miranda was sworn in and testified requesting a 23.5-foot variance from the required 40-foot front setback requirement for a proposed dwelling; that the property is only 68-foot wide; that a variance for Case No. 8451 was granted in 2003 but has expired; and that the property is vacant.

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 meets the standards for granting a variance.** Vote carried 5 – 0.

**Case No. 9839 – Anna Ward-** north of Road 20A, east of Road 486A.

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

Mrs. Collins presented the case. Donald Ward was sworn in and testified requesting a 4,810-square foot variance from the required 32,670-square foot requirement

for a parcel; that the previous owners applied for a similar variance; that it was denied; that he would like to subdivide the parcel; that it would be used for affordable housing; that he would like to sell the property to Habitat for Humanity; that he has a entrance approval letter from Del-Dot; and that the lot is wooded.

Richard T. Fall was sworn in and testified in favor of the application and stated that he is the Past President of Habitat for Humanity; that he would like to have the application approved; that Mr. Ward had offered the land to the organization for affordable housing; and that if the application is approved 2 homes would be built.

Idola Williams Batson was sworn in and testified in opposition to the application and stated that she would like to see only one home built on that parcel of land; that she would like the home to be a quality home on that parcel; and that she feels if the parcel is split that the lots would be to small.

William Batson was sworn in and testified in opposition to the application and stated that he feels if the parcel is subdivided that the lots would be to small.

Bill Palmer was sworn in and testified in opposition to the application and stated that he owns a lot in the area; that he feels it is not a good case for a variance; and that he questions the septic system.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be heard. Vote carried 5 – 0.

Motion by Mr. Hudson, 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. Hudson, seconded by Mr. Workman, and carried unanimously that the case be **tabled until the June 11, 2007 meeting**. Vote carried 5 – 0.

**Case No. 9840 – Barbara and Richard Hadley** – west of Road 258, north of Dan's Lane being Lot 89 within Lazy Lake development.

A variance from the side yard setback requirement.

Mrs. Collins presented the case. Barbara Hadley was sworn in and testified requesting a 1-foot variance from the required 10-foot side yard setback requirement; that the manufactured home she would like to purchase is 1-foot too long; that she would

like the manufactured home to face the street; and that the manufactured home would measure 28' x 56'.

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. 9841 – Matthew and Linda Hanna-** north of Road 358, being Lot 302 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.

Mrs. Collins presented the case. Linda Hanna was sworn in and testified requesting a 4-foot variance from the required 20-foot separation between units and a 8-foot variance from the required 35% gross area for a lot; that the shed will measure 6' x 8'; that the porch will measure 40' x 10'; that the porch will only be 16-foot from the next structure; and that she received an approval letter from the landlord.

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

**Case No. 9842 – Bruce M. and Carla E. Rickards-** south of Route 26, intersection west of Road 402A.

A special use exception to place a private garage for more than four (4) automobiles and floor area greater than 900 square feet.

Mrs. Collins presented the case. Bruce and Carla Rickards were sworn in and testified requesting a special use exception to place a garage for more than four (4) automobiles and a floor area of more than 900-square feet; that the parcel is vacant; that the garage would be used to store automobiles; that he owns over 100 acres; that his adjacent parcel has a six (6) car garage on it; and that in approximately one (1) year he plans on building a 10,000-sqaure foot house.

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

**Case No. 9843 – Marvin and Darlene McCray-** west of Road 493, north of Road 494, being Lot 15 within North Towns End development.

A variance from the side yard setback requirement.

Mrs. Collins presented the case. Marvin McCray was sworn in and testified requesting a 4.5-foot variance from the required 15-foot side yard setback requirement; that the foundation is already built; that there will be an addition from the house to the garage.

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

Brian Eddy was sworn in and testified in opposition to the application and stated that he owns property next to the applicant; and that he feels that setbacks are forced to maintain property value.

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

**Case No. 9844 – Carol Stephan-** north of Road 483, east of Jana Circle, being Lot 17 within Fleetwood Estates development.

A variance from the side yard setback requirement.

Mrs. Collins presented the case. Carol Stephan was sworn in and testified requesting a 12-foot variance from the required 15-foot side yard setback requirement; that she would like to build a living space on to her son's home; that it will have no kitchen; and that the parcel is located adjacent to a storm water basin.

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

**Case No. 9845 – Kevin and Abby Allen** – east of Road 447, east of Megan Way, being Lot 25 within Shiloh Woods II development.

A variance from the side yard setback requirement.

Mrs. Collins presented the case. Kevin Allen was sworn in and testified requesting a 10-foot variance from the required 15-foot side yard setback requirement; that the detached garage measures 30' x 32'; that he obtained a permit for the garage; that Pioneer Pole Building built the garage; that it has a concrete floor; and that his neighbor has no objections to it.

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 taken under advisement. Vote carried 5 – 0.

At the conclusion of the public hearings, the Chairman referred back to this case. Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be **tabled until the June 11, 2007 meeting**. Vote carried 5 – 0.

**Case No. 9846 – George G. Keen-** Road 363, within Plantation Park Marina.

A variance from the minimum frontage along any tidal water body, river or their major tributaries.

Mrs. Collins presented the case. Jeff Clark from Land Tech was sworn in and testified requesting a 75-foot variance from the required 150-foot of frontage along any tidal water body, river or their major tributaries; that the subdivision was approved in 1988; that Sussex County would provide wastewater service; that he currently has an application to go before the P & Z Commission for a rezoning; and that it will consist of 7 lots.

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 **tabled until the June 11, 2007 meeting**. Vote carried 5 – 0.

**Case No. 9847 – Sharon Wisgo Hunsinger-** south of Road 358, west of Pine Needle Road, being Lot 3, Section 1 within Pine Crest Terrace development.

A variance from the front yard setback requirement.

Mrs. Collins presented the case. Lan Hunsicker was sworn in and testified requesting a 15-foot variance from the required 40-foot front yard setback requirement; that they would like to place a new singlewide on the property; that it would measure 14' x 70'; and that the lot measures approximately 61' x 105'.

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 character of the neighborhood, since it will have no adverse effect to the adjacent properties, and since there have been numerous variances granted in the development**. Vote carried 5 – 0.

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The Board took a 10-minute recess.

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**Case No. 9848 – JAYK, LLC-** northwest of Atlantic Street, 200 feet northeast of Washington Street, being Lot 20, Block A within Washington Heights development.

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

Mrs. Collins presented the case. Jane Kirby and Joseph Hill were sworn in with James Becker, Attorney, present on behalf of the applicant, and testified requesting a 6.7-foot variance from the required 10-foot rear yard setback requirement, a 9.5-foot variance from the required 10-foot side yard setback requirement, and a 2-foot variance from the side yard setback requirement; that the property was purchased in 1998; that the front structure was built in 1945; that the certificate's of occupancy were issued; that the lot is subsized; and that the property is for sale.

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

**Case No. 9849 – Bruce and Yvonne Eckerd** – north of Road 84, 582 feet north of Road 366.

A variance from the minimum lot width requirement and variance from the side yard setback requirement.

Mrs. Collins presented the case. Bruce Eckerd was sworn in with Jane Patchell, Attorney, present on behalf of the applicant, and testified requesting a 100-foot variance from the required 150-foot lot width requirement for a parcel, a 29.52 variance from the required 150-foot lot width requirement for a parcel, and a 3.3-foot variance from the required 15-foot side yard setback requirement; that he would like to subdivide the parcel into two (2) lots; that he purchased the parcel in 1989; that the parcel has 170.49-feet of road frontage; and that the parcel is narrow.

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.

Motion by Mr. Workman, seconded by Mr. McCabe, and carried unanimously that the variances 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. 9850 – James and Michele Sprinkle**- southeast of Route 18 (Savannah Road), 210 feet north of Road 269.

A variance from the front yard setback requirement.

Mrs. Collins presented the case. James and Michele Sprinkle were sworn in and testified requesting a 27-foot variance from the required 60-foot front yard setback requirement; that they are the owners of All Pro Maids; that the business was damaged by a fire; that an engineering firm suggested the building be lifted; and that the building needs to be squared up.

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

### **OLD BUSINESS**

**Case No. 9830 – James W. Bryan, Jr.-** east of U.S. Route 113, west of Road 406, being Lot A within Martha Timmons development.

A special use exception for a billboard and a variance from the separation and side yard setback requirements.

The Board discussed the case, which has been tabled since May 7, 2007.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the special use exception be **denied since it does not meet the standards for granting a variance**. Vote carried 5 – 0.

### **OTHER BUSINESS**

**Case No. 9468 – Jon Toberman-** southwest of Route 54, northeast of Cleveland Avenue, being Lot 9, Block 4 within Cape Windsor development.

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

Mr. Rickard stated there was a discussion about a survey for HVAC units that were not discussed in the previous hearing.

There was a consensus of the Board that the applicant must reapply for the variance and pay the filing fee.

**Case No. 9821 – Samuel and Mary Hoffman-** south of Route 54, east of Roosevelt Avenue, being Lot 28 within Cape Windsor development.

A variance from the side yard setback requirement.

Mrs. Collins stated the office had received a letter requesting a rehearing.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the request for a rehearing be **granted and that the applicant pay the filing fee**. Vote carried 5 – 0.

**Meeting Adjourned 9:40 p.m.**