



Board of Adjustment

Agendas & Minutes

MINUTES OF JANUARY 12, 2004

The special meeting of the Sussex County Board of Adjustment was held Monday evening January 12, 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 Mr. Berl – Assistant County Attorney, Mr. Rickard – Secretary to the Board, Mrs. Heffelfinger – Zoning Inspector II, and Mrs. Norwood – Recording Secretary.

Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously to approve the Revised Agenda with Case No. 8489 – Lawrence and Nancy Odette withdrawn on January 8, 2004. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Mills, and carried unanimously to approve the Minutes of January 5, 2004 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. 8482 – Janeen and Donald D. Parrish, Sr. – southeast of Road 350, south of Holly Wood Drive, being Lot 9, Block C, within Land of Pleasant Living Development.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Donald Parrish was sworn in and testified requesting a 5-foot variance from the required 30-foot front yard setback requirement for a proposed addition; that he plans to extend his existing attached garage; that the extension will measure 4' x 24'; that he was approved for a previous variance on the existing deck; and that he 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 the variance request is less than the previously granted variance for the existing deck**. Vote carried 5 – 0.

Case No. 8483 – Daniel W. Wilkins – north of Road 253, 3,650 feet east of Road 319.

A variance from the minimum lot size requirement to place an on-farm manufactured home.

Mr. Rickard presented the case. Daniel Wilkins was sworn in and testified requesting a 1.6-acre variance from the required 10-acre requirement for an on-farm manufactured home; that his son will live in the manufactured home; that they have 3 poultry houses; and that 2 older poultry houses are used for storage.

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 since it is a minimum variance request**.
Vote carried 5 – 0.

Case No. 8484 – J. A. Moore Construction L.L.C. – west of Road 273, south of Doolin Lane, being Lot 7 within Kinsale Glen Development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Kevin Billing was sworn in and testified requesting a 1-foot variance from the required 10-foot side yard setback requirement and a 1-foot variance from the required 6-foot setback requirement for an HVAC system; that a surveyor marked the corners of the dwelling; that the sub-contractor measured from the bump out in the plans; that the HVAC is also encroaching on the same side as the requested variance; that the HVAC unit could be moved to the other side of the dwelling in order to comply; and that a temporary Certificate of Occupancy has been issued.

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 for a 1-foot variance for the dwelling and since it will not alter the character of the neighborhood**. Vote carried 5 – 0.

Case No. 8485 – Melody Olsen – northwest of Road 36, 500 feet west of Road 208.

A special use exception to operate a bed and breakfast facility.

Mr. Rickard presented the case. Melody Olsen was sworn in and testified requesting a special use exception for a bed and breakfast facility; that she owns an 18-acre farm; that she grows Christmas trees and blueberries on the property; that she plans to rent out 4-bedrooms; that she will have only 1-kitchen; and that her neighbors are in support of the application.

By a show of hands, 5 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. McCabe, and carried unanimously that the special use exception be **granted for 4-bedrooms, since it will not alter the character of the neighborhood.** Vote carried 5 – 0.

Case No. 8486 – Barbara Ann Hearn – southwest of Route 54, east side of Taft Avenue, being Lot 4, Block 2, within Cape Windsor Development.

A variance from the rear yard setback requirement.

Mr. Rickard presented the case. Barbara Hearn was sworn in and testified requesting a 5-foot variance from the required 20-foot rear yard setback requirement; that she wants to replace an existing deck; that the proposed deck will be in the same footprint as the existing deck; and that the existing deck is beyond repair.

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.

Mr. Rickard stated that the office received 1 letter 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 there have been numerous variances granted in the development.** Vote carried 5 – 0.

Case No. 8487 – Linda and Dennis Morena – north of Route 54, 1,800 feet west of Route One, being Lot 2.

A variance from the front yard setback requirements.

Mr. Rickard presented the case. Dennis Morena was sworn in and testified requesting a 33-foot variance from the required 60-foot front yard setback requirement; that the manufactured home has been on the property since the 1960's; that he plans to place a modular dwelling on the parcel; that the proposed dwelling will actually be set farther back on the property than the existing manufactured home; that the proposed dwelling will be used on the weekends only; that his wife is a loan officer for GMAC Mortgage; that she will have clients by appointment only; that the proposed dwelling will also be used as a model home; and that the majority of the lot will be used for parking.

Linda Morena was sworn in and testified in support of the application; that most of her work is by telephone only; and that she may have 1 client at a time come to the office.

Mr. Berl explained to the Applicant's that they need to go through the Planning and Zoning Commission for permission to operate the two proposed commercial ventures.

Mr. Rickard stated to the Applicant to get a site plan showing the proposed dwelling and parking area and bring it to the Planning and Zoning Department.

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 case be **left open until a site plan is presented the Planning and Zoning Department**. Vote carried 5 – 0.

Case No. 8488 – P & A, LLC (Maryland) – east of U.S. Route 13, 2,050 feet south of Road 454.

A special use exception to retain a manufactured home type structure and a special use exception to place a manufactured home type structure.

Mr. Rickard presented the case. Jack Herbert was sworn in and testified requesting a special use exception to retain a manufactured home type structure and a special use exception to place a manufactured home type structure; that the site is an existing asphalt plant; that the manufactured homes are already on site; that the units are placed in the center of the plant area; that the units are used by employees only; that there are a total of three units; that the first unit is considered a permanent structure; that the units are all connected; that all the axles have been removed; and that he submitted a site plan.

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.

Mr. Rickard stated that the Applicant needed to submit a revised site plan to the Planning and Zoning Department.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be **left open for a site plan to be submitted**. Vote carried 5 – 0.

Case No. 8490 – Brooks Clayville – south of Road 427, 550 west of Road 524.

A variance from the minimum lot width requirement and a variance from the minimum lot size requirement.

Mr. Rickard presented the case. Brooks Clayville was sworn in and testified requesting a 44.75-foot variance from the required 150-foot width requirement and a

3,600-foot variance from the required 32,670-square-foot lot size requirement for a parcel; that he plans to subdivide and build two dwellings; that the lots have been approved for septic systems; that surrounding properties have a minimum lot width of 100-foot; that an old garage will be removed if the request is granted; that he would agree to a shared driveway; and that he submitted surveys.

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, to approve the variance request since it will not alter the character of the neighborhood.

Motion withdrawn by Mr. McCabe for lack of a second.

The Chairman tabled the case until January 26, 2004.

Case No. 8491 – George and Elizabeth Craig – north of Road 244, 2,650 feet west of Road 319.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. George Craig was sworn in and testified requesting a 14.4-foot variance from the required 40-foot front yard setback requirement; that he replaced an existing manufactured home; that he was the general contractor for the new dwelling; that he measured incorrectly from the road for the setback requirement; that a Zoning Inspector made him aware of the violation; and that he apologized to the Board for his mistake.

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 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. Mills, and carried unanimously that the variance be **granted since it will not alter the character of the neighborhood and would create an economic hardship to the Applicant.** Vote carried 5 – 0.

Case No. 8492 – Stella V. Sperry – north of Road 410, 827 feet east of Road 410 and Road 433.

A variance from the rear yard setback requirement.

Mr. Rickard presented the case. Stella Sperry was sworn in and testified requesting a 15-foot variance from the required 20-foot rear yard setback requirement for a proposed detached garage; that the proposed detached garage will measure 32' x 40'; that she plans to build a ramp from the existing dwelling to the proposed garage; and that an existing garage is used for storage only.

Donald Ward was sworn in and testified in opposition to the application and stated that he owns the adjacent property to the rear of the Applicant's parcel; that the variance would have an adverse affect to his property; that a previous shed did encroach on his property; that the existing buildings do not meet the side yard setback requirements; and that he questions why the proposed garage needs to be placed that far back on the property to accommodate a ramp.

In rebuttal, Stella Sperry, stated that she has moved an existing shed that was encroaching; that the proposed garage will line up with an existing driveway; and that the placement of the garage will allow for a ramp to be built off to the side of the existing driveway.

The Board stated that they would like to see a survey showing the proposed garage and existing buildings locations.

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

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the case be **left open to allow the Applicant to provide a survey**. Vote carried 5 – 0.

Case No. 8493 – Brenda Gergle – east of Road 263, east of Grandview Street, being Lot A-15 within Donovan's Mobile Home Park.

A variance from the separation requirement between units in a mobile home park and a variance from the rear yard setback requirement.

Mr. Rickard presented the case. Randy Gilgrove was sworn in and testified requesting a 15-foot variance from the required 20-foot separation requirement between units and a 1-foot variance from the required 5-foot rear yard setback requirement; that they replaced an existing shed; that the new shed was placed on an existing concrete pad; and that a previous variance has been granted for this lot.

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

Case No. 8494 – Robert and Barbara Pelly – south of Route 54, east of Cleveland Avenue, being Lot 2, Block 4 within Cape Windsor Development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Robert Pelly was sworn in and testified requesting a 4.68-foot variance from the required 10-foot side yard setback requirement for a proposed manufactured home; that the existing unit, deck and shed will be removed; that he plans to place the proposed unit the same distance from the side property line as the existing unit; and that he plans to attach the proposed unit to an existing ground level deck.

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

Mr. Rickard stated that the office received a letter in support of the application from the Homeowner's Association.

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 variance be **granted since it will not alter the character of the neighborhood and other variances have been granted in the development.** Vote carried 5 – 0.

Case No. 8495 – Mandron Homes – north of Route 54, east of Road 381, being Lot 44, Phase I within Swann Cove Development.

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

Mr. Rickard presented the case. Tony Salvatoreo was sworn in and testified requesting a special use exception for a manufactured home type structure for a sales office; that the unit will be used for a sales office until the model homes are complete; that the models should be complete within six (6) months; and that he would not object to a one year limitation.

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 exception be **granted for a period of one (1) year.** Vote carried 5 – 0.

Case No. 8496 – Vine's Creek Marina L.P. – east of Road 341-B, north of private road.

A variance from the state wetlands setback requirement.

Mr. Rickard presented the case. Michael Johnigan was sworn in and testified requesting a 25-foot variance from the required 50-foot setback from State Wetlands; that he plans to subdivide the parcel; that he is seeking the variance so he can begin construction on both proposed dwellings; that without the variance he must comply with the required setback from the wetlands and would have to build the dwelling on the lagoon side first; that by subdividing the land prior to building the dwelling will not have to be built as close to the water; and that the majority of the dwellings in the area are only 15-foot from the lagoon.

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. McCabe, and carried unanimously that the variance be **granted due to the uniqueness of the parcel and the hardship was not created by the Applicant**. Vote carried 5 – 0.

OLD BUSINESS

Case No. 8474 – Hong Nguyen – west of Road 554, 330 feet south of Road 30, being Parcel A.

A special use exception to place a third on-farm manufactured home.

The Board discussed the case.

Motion by Mr. Workman, seconded by Mr. Mills, and carried unanimously that the special use exception be **granted with the stipulation that the unit not lived in by the family be removed prior to the proposed manufactured home being placed since it will not alter the character of the neighborhood**. Vote carried 5 – 0.

Case No. 8479 – Michael and Ethan Rhodes – east of Route One, east of Pierce Avenue, being Lots 17 and 19 within Indian Beach Surf Club Lots.

A variance from the rear yard setback requirement.

The Board discussed the case.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the variance be **denied since the request does meet the standards for granting a variance**. Vote carried 5 – 0.

Meeting Adjourned 9:12 p.m.