



Board of Adjustment

Agendas & Minutes

MINUTES OF FEBRUARY 2, 2004

The regular meeting of the Sussex County Board of Adjustment was held Monday evening February 2, 2004, at 7:00 p.m. in the County Council Chamber, 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, Mrs. Heffelfinger – Zoning Inspector II, and Mrs. Norwood – Recording Secretary.

Motion by Mr. McCabe, seconded by Mr. Hudson, and carried unanimously to approve the Revised Agenda with Case No. 8490 – Brooks Clayville to be added on February 9, 2004 Agenda. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of January 12, 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. 8512 – Dana Hanson – south of Route One, northwest of Seaside Avenue, being Lot A-36 within Sea Air Mobile City Mobile Home Park.

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

Mrs. Heffelfinger presented the case. Dana Hanson was sworn in and testified requesting a 12-foot variance from the required 20-foot separation requirement between units in a mobile home park and a 5-foot variance from the required 5-foot side yard setback requirement for a deck; that the proposed deck will measure 12' x 50'; that the neighbors are in favor of the application; and that the mobile home park is in favor of the application.

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 variances be **granted since it will not alter the character of the neighborhood and due to the uniqueness of the lot created by the park.** Vote carried 5 – 0.

Case No. 8513 – Brian Dzon – east of Route 22, north of East Harbour Road, being Lot 224 within White House Beach Mobile Home Park.

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

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Mrs. Heffelfinger presented the case. Brian Dzon was sworn in and testified requesting a 3-foot variance from the required 5-foot side yard setback requirement for a deck, a 8-foot variance from the required 20-foot separation requirement between units in a mobile home park and a 2.7-foot variance from the required 20-foot separation requirement between units in a mobile home park for a manufactured home; that the manufactured home was placed in 1999; that his contractor obtained the building permit; and that he could provide the office with the contractors name and address.

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 variances be **granted since it will not alter the character of the neighborhood and that a letter be sent to the contractor.** Vote carried 5 – 0.

Case No. 8514 – Greg Nailor – west of Road 42, 1,850 feet south of Road 635.

A variance from the minimum lot width requirement.

Mrs. Heffelfinger presented the case. Greg Nailor was sworn in and testified requesting a 45-foot variance from the required 150-foot lot width requirement for a parcel and a 45-foot variance from the required 150-foot lot width requirement for a parcel; that he was previously granted the variance in 1999; that due to problems with the surveyor the lot was never subdivided; that he was unaware that the approval would expire within the year if the use was not established; that he currently lives in the existing dwelling; that he plans to build the proposed dwelling; and that both dwellings will meet the required setback requirements.

Robert Messick was sworn in and testified in opposition to the application and stated that he owns the adjacent property to the south of the Applicant; that he feels the proposed subdivision will decrease the value of his property; and that the parcel is not wide enough to accommodate two dwellings.

Robin Messick was sworn in and testified in opposition to the application and stated that the request is out of character with the neighborhood; and that she is concerned for the preservation of farmland.

Ronald Patton was sworn in and testified in opposition to the application and stated that he built a new dwelling on the adjacent parcel in 2001; that he wanted to know the Applicants intention with the existing dwelling; and that he would not have built his dwelling on the adjacent property had the subdivision been completed in 1999.

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By a show of hands, 3 parties appeared 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.

At the conclusion of the public hearings, the Chairman referred back to this case. Motion by Mr. Hudson, seconded by Mr. McCabe, and carried unanimously that the case be **tabled until February 9, 2004**. Vote carried 5 – 0.

Case No. 8515 – Stanley A. Millman – west of Road 317, 4,800 feet south of Road 315.

A variance from the front yard setback requirement.

Mrs. Heffelfinger presented the case. Stanley Millman was sworn in and testified requesting a 26-foot variance from the required 40-foot front yard setback requirement for a covered porch and a 20-foot variance from the required 40-foot front yard setback requirement for an addition; that the existing dwelling is non-conforming; that he built the addition in line with the dwelling; that the covered porch does not encroach any further than the original porch; that he was not clear on where to measure for the setback requirements; and that he plans to build another addition on the opposite side of the dwelling.

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 variances be **granted since the original setback was not created by the Applicant and since it will not alter the character of the neighborhood and that a variance be granted for the proposed addition as it will not extend further than the existing structure**. Vote carried 5 – 0.

Case No. 8516 – Carolyn A. and John K. Cassady, III – north of Route 54, west of Blue Teal Road, being Lot 37, Block C, within Swann Keys Development.

A variance from the side yard setback requirement.

Mrs. Heffelfinger presented the case. John Cassady was sworn in and testified requesting a 1-foot variance from the required 10-foot side yard setback requirement for an existing deck; that he built a larger deck than planned; and that he built the deck the same length as the boards rather than cut them.

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

Mrs. Heffelfinger stated that the office received 1 letter in support of 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 other variances have been approved within the development.** Vote carried 5 – 0.

Case No. 8517 – Ramon B. Amon and Gene Sirlouis – east of Route One, south of Collins Avenue, being Lot 22 within Indian Beach Surf Club.

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

Mrs. Heffelfinger presented the case. Ramon Amon and Gene Sirlouis were sworn in and testified requesting a 13.2-foot variance from the required 30-foot front yard setback requirement for a proposed second and third story addition, a 12.6-foot variance from the required 30-foot front yard setback for a roof overhang and a 3.1-foot variance from the required 10-foot side yard setback requirement for an existing addition; that they purchased the property in 2003; that a Certificate of Occupancy was issued in 1998 for the existing addition; that they want to build a 2-story addition; that the proposed addition will not encroach any further into the setback than the original dwelling; that the proposed addition will extend over the existing addition however will not encroach any further into the setback; and that they submitted pictures and the proposed plan.

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.** Vote carried 5 – 0.

Case No. 8518 – Ocean Atlantic Assoc. V LLC – east of Route 88, southwest of Route One, within Paynters Mill.

A variance from the maximum height requirement for a structure.

Mrs. Heffelfinger presented the case. Steve Wagner was sworn in and testified requesting a 23-foot variance from the required 42-foot height requirement for a structure; that the structure will be the community center for the development; that the

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center is a Quaker Meeting House design; that the requested variance is for the proposed bell tower; that the center is the focal point of the development; that the tower can be seen from Road 88 and Route One; and that the only access to the bell tower will be for maintenance.

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 will not alter the character of the neighborhood**.
Vote carried 5 – 0.

Case No. 8519 – Walter T. Dashiell, Sr. – east of U.S. Route 13A, 2,691.8 feet south of Road 64.

A variance from the side yard setback requirement.

Mrs. Heffelfinger presented the case. Walter T. Dashiell, Sr. was sworn in and testified requesting a 1.5-foot variance from the required 5-foot side yard setback requirement, a 2.2-foot variance from the required 5-foot side yard setback requirement and a 1.9-foot variance from the required 5-foot side yard setback requirement; that he plans to subdivide the parcel for his daughter; that the proposed property line will run between the two existing sheds; and that his daughter will be placing a new manufactured home on the parcel.

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 variances be **granted since it will not alter the character of the neighborhood and is a minimum variance request**. Vote carried 5 – 0.

Case No. 8520 – Joseph Marini – north of Road 241, 4,000 feet west of Road 319.

A special use exception from the provisions and requirements to retain a manufactured home on a parcel.

Mrs. Heffelfinger presented the case. Joseph Marini was sworn in and testified requesting a special use exception to retain a manufactured home on a parcel; that the units have been on the parcel since 1984; that one unit is his primary residence and the other unit is for his employee; that he plans to subdivide the parcel to keep the residence

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more than 100-foot from a pesticide that is used on the farm; that he plans to build a new dwelling and keep one unit for an office for the farm; 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. Hudson, and carried unanimously that the case be **tabled until February 9, 2004**. Vote carried 5 – 0.

Case No. 8521 – L.T.L. Acres L.P. – northeast of Road 462, east of U.S. Route 13.

A variance from the minimum parking spaces requirement and a variance from the minimum off-street loading spaces requirement.

Mrs. Heffelfinger presented the case. Donald Collins was sworn in and testified requesting a 231-parking space variance from the required 556-parking space requirement and a 5-loading space variance from the required 7-loading space requirement; that 325-parking spaces will be more than enough to handle the daily customers; and that 2-loading spaces will be enough to handle the deliveries.

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 variances be **granted with stipulation that the variance is only good for as long as the building is used as a furniture store and since it will not alter the character of the neighborhood**. Vote carried 5 – 0.

Case No. 8522 – Mark Hardesty – south of Road 80, 956 feet north of Road 542.

A special use exception from the provisions and requirements to retain a manufactured home.

Mrs. Heffelfinger presented the case. Mark Hardesty was sworn in and testified requesting a special use exception from the provisions and requirement to retain a manufactured home; that he currently has tenants in the dwelling and the manufactured

home; that his tenants wish to purchase the dwelling; that he is aware the neighbors are concerned that the manufactured home will be moved to another location on the property; and that he is willing to stipulate in the deed that the unit remain in its current location.

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Richard Houston was sworn in and testified in opposition to the application and stated that he is opposed to the property being subdivided; and that he is opposed to the manufactured home being relocated.

Norma Dukes was sworn in and testified in opposition to the application and stated that she is representing a group of concerned neighbors; and that they would like a stipulation in place that the existing manufactured home not be relocated.

In rebuttal, Mark Hardesty, stated that he is in agreement to the stipulation that the manufactured home not be relocated.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the special use exception be **granted with the stipulation that the existing manufactured home not be relocated and if the unit is replaced with another unit that the unit must be placed within the same footprint and since it will not alter the character of the neighborhood.** Vote carried 5 – 0.

Case No. 8523 – Poulte Homes – northeast of Route One, 1,100 feet northwest of Road 283.

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

Mrs. Heffelfinger presented the case. Robert Flannagan and Belinda Huesman were sworn in and testified requesting a special use exception to place a manufactured home for a sales office; that the company's name is misspelled on the application and should be Pulte Homes; that the unit will be used for approximately 6 to 8 months; that the unit will measure 23' x 60'; that they have the Building Code and Fire Marshall approvals; and that the company takes great pride in appearance and the site will be very pleasing to the public eye.

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 special use exception be **granted for a period of one (1) year since it will have no adverse effect on the community**. Vote carried 5 – 0.

Case No. 8524 – Nick Wexler – northwest of Route 24, 765 feet northeast of Road 275.

A variance from the minimum parking spaces requirement.

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No one appeared on behalf of the application.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the variance be **denied for lack of a record of support**. Vote carried 5 – 0.

Case No. 8525 – Joanne S. Burton – northeast of Route One, east of F. Benson Street, being Lot 21, Block B, within Dodd's Addition Development.

A variance from the side yard setback requirement.

Mrs. Heffelfinger presented the case. Joanne Burton was sworn in and testified requesting a 4-foot variance from the required 15-foot side yard setback requirement and a 9.2-foot variance from the required 10-foot side yard setback; that the request was heard in a previous hearing on December 9, 2003; and that the survey shows the exact measurements for the new parcel.

Mrs. Heffelfinger stated that the office received 8 letters in support of the application.

Mrs. Heffelfinger stated that the office received 2 letters in opposition of the application.

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

OLD BUSINESS

Case No. 8448 – Curtis Hayes – east of Road 589, 850 feet south of Road 589A.

A special use exception to replace a nonconforming manufactured home.

The Board discussed the case.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the special use be **granted**. Vote carried 5 – 0.

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

A variance from the front yard setback requirement.

The Board discussed the case.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be **tabled until February 9, 2004**. Vote carried 5 – 0.

Case No. 8472 – Blue Hen Auto Sales – north at the intersection of Road 207 and U.S. Route 113 North.

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

Mrs. Heffelfinger read a letter requesting the case to be re-heard.

The Board discussed the letter.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the Applicant be **allowed to re-apply and pay the filing fee**. Vote carried 5 – 0.

Meeting Adjourned 8:55 p.m.