



*Board of Adjustment*  
Agendas & Minutes

**MINUTES OF FEBRUARY 7, 2005**

The regular meeting of the Sussex County Board of Adjustment was held on Monday evening, February 7, 2005, 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, Ms. Hudson, Zoning Inspector II, and Mrs. Norwood – Recording Secretary.

Motion by Mr. Mills, seconded by Mr. McCabe, 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 January 24, 2005 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. 8945 – Atlantic Aluminum Products, Inc. and Dan Schlabach** – north of Route One at Five Points intersection.

A variance from the front yard setback requirement.

Ms. Hudson presented the case. Dan Schlabach was sworn in and testified requesting a 36-foot variance from the required 60-foot front yard setback requirement for a sunroom display; that the display will measure 8' x 14'; that the display will line up with the existing building; that the display stands alone; that the display will be lighted; that there will be a walkway and landscaping to the display; and that the display will only be on the property temporarily.

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 variance be **granted since it will not alter the character of the neighborhood and since the existing building is non-conforming**. Vote carried 5 – 0.

**Case No. 8946 – Denise Thompson** – south of Route 18, 2,950 feet west of Road 528.

A special use exception to operate a riding academy and a variance from the side yard setback requirement.

Ms. Hudson presented the case. Raul Diaz and Denise Thompson were sworn in and testified requesting a special use exception to operate a riding academy and a 145-

Minutes

February 7, 2005

Page 2

foot variance from the required 200-foot setback requirement and a 71-foot variance from the required 200-foot setback requirement; that they currently run an academy in New York; that they wish to relocate their academy to this area; that they teach riding to beginners through advanced riders; that they also teach riding to people with special needs; that there are never more than 4 students in the arena at one time; that they compost and donate the manure; that the closest residence is a dog kennel; that the hours of operation are from 9:30 a.m. to 6:00 p.m., six days a week; that they do have a summer camp for no more than 15-children; that they will never have more than 8-horses; that the L-shaped structure will measure 40' x 50'; that there are existing trails on the property; that there is a dwelling on the parcel; and that they submitted pictures.

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 and variances be **granted; that the special use be granted for a period of five (5) years; and that the hours of operation be daylight hours; and since it will not alter the character of the neighborhood.** Vote carried 5 – 0.

**Case No. 8947 – Kenneth and Carolyn Feigenbaum** – south of Road 277, east of Boat Dock Drive East, being Lot 9 and ½ Lot 8, Block Y, Section 4 within Angola By The Bay development.

A variance from the rear yard setback requirement.

Ms. Hudson presented the case. John Sergovic, Attorney, on behalf of the application testified requesting an 8.2-foot variance from the required 20-foot rear yard setback requirement for an existing dwelling; that the Certificate of Compliance was issued in 1983; that the encroachment went unnoticed during a previous sale of the property; that the encroachment was discovered during settlement; that there is no substantial effect to the neighborhood; and that the encroachment was not created by the Applicant.

The Board members 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 variance be **granted since it will not alter the character of the neighborhood and was not created by the Applicant**. Vote carried 5 – 0.

**Case No. 8948 – Robin L. Verdery** – south of Road 548, 359 feet west of Road 552.

Minutes  
February 8, 2004  
Page 3

A special use exception to operate a day care facility.

Ms. Hudson presented the case. Robin Verdery was sworn in and testified requesting a special use exception to operate a day care facility; that she wants to increase the number of children in her existing day care facility; that she will care for up to 14-children; that they will range in ages from infant to 12-years of age; that she has one employee; that she has adequate parking; and that she has been in business for 10-years.

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 special use exception be **granted and that the maximum number of children will be fourteen (14)**. Vote carried 5 – 0.

**Case No. 8949 – Judith Barth** – west of Ocean Drive, west of West Harbor Road, being Unit 22 within North Shores development.

A variance from the rear yard setback requirement.

Ms. Hudson presented the case. Judith Barth was sworn in and testified requesting a 5-foot variance from the required 5-foot rear yard setback requirement for a proposed shed; that the shed will be a duplicate of her neighbor's shed; that the shed is within character of the neighborhood; and that her neighbor is in support of the application.

By 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. 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. 8950 – Donna and Kenneth Bender** – south of Road 613, 350 feet southwest of Road 614.

A special use exception to retain a manufactured home for storage purposes.

Ms. Hudson presented the case. Donna Bender was sworn in and testified requesting a special use exception to retain a manufactured home for storage purposes; that she currently lives in a 14' x 70' unit; that the unit they plan to use for storage is 12' x 60'; that the unit will be used strictly for storage only; that the unit cannot be seen from

Minutes

February 7, 2005

Page 4

the road; that there is no plumbing hooked up to the unit; and that they plan to build a dwelling in the future.

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 will have no adverse effect to the community**. Vote carried 5 – 0.

**Case No. 8951 – Mark and Charlene Reuss** – south of Route 54, north of West Stoney Run, being Lot 201 within Keenwick Sound Phase II development.

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

Ms. Hudson presented the case. Steve Parsons, Attorney, on behalf of the application, testified requesting a 3-foot variance from the required 5-foot side yard setback requirement and a 2.5-foot variance from the required 5-foot rear yard setback requirement; that the Applicant purchased the property in 2003; that the shed has been on the property for 15-years; that they were not aware of the encroachment until they received notice from the Planning and Zoning Department; that there are numerous sheds in the development; and that the Homeowner's Association has 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**. Vote carried 5 – 0.

**Case No. 8952 – Sun Communities** – west of Route One, southeast of Atlantic Avenue, being Lot F-15 within Sea Air Mobile City Mobile Home Park.

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

The Board took testimony for Case No. 8952, 8953, 8954, 8955 and 8956 all together.

Ms. Hudson presented the case. John Kates was sworn in and testified requesting a 2-foot variance from the required 20-foot separation requirement between units in a

Minutes  
February 7, 2005  
Page 5

mobile home park, a 4-foot variance from the required 20-foot separation requirement between units, and a 4-foot variance from the required 20-foot separation requirement between units in a mobile home park; the proposed unit will measure 24' x 66'; and that the unit will be the same distance from Lot F17 as the previous unit.

Mel Weller was sworn in and testified he had a few questions about the application and stated that he wanted to know the distance the unit would be from his deck on Lot E8; that he was also concerned with the location of the exits and entrances on the unit; and that if the proposed unit was going to remain the same distance from his deck as the previous unit he would have no objection to the application.

Katherine Newman was sworn in and testified in opposition to the application and stated that she lives in another park that the Applicant owns and that she wanted to know if the Applicant had made the surrounding tenants aware of the applications.

Jeanne Sisk was sworn in and testified in opposition to the application and stated that she is a member of the Homeowner's Association; that the new larger units are not in character with the neighborhood; that they are concerned the larger units create a fire hazard; that the existing units do have additions, however they do not extend further than the existing units; that the Association would like to put a stop to all variances; and that the Association will not object to a variance if the effected neighboring unit has no problem with the proposed variances.

In rebuttal, John Kates, stated that it is unreasonable to stop all variances; that without variances most lots could not add any decks or additions; and that the older units in the park have been remodeled.

In rebuttal, Jeanne Sisk, stated that the Association wants to keep the original plan of the park; and that most tenants are unaware of upcoming variances because they do not live in the park year around.

Bill Reed was sworn in and testified in opposition to the application and stated that he feels that it is a very positive thing the park owners are trying to do by replacing

units and cleaning up the park; that he feels putting a large unit on a postage stamp lot, however is not the answer; that encroaching the 20-foot separation requirement with units rather than just decks and additions is more dangerous for all tenants.

John Walsh was sworn in and testified in opposition to the application and stated that he lives in a community with no fire hydrants; and that to reduce the distance between units is too dangerous.

Minutes  
February 7, 2005  
Page 6

Carmen Balascio was sworn in and testified in opposition to the application and stated that he has no objection to the variances from separation; that everyone at the park has been before the Board of Adjustment; that he does object to an 80-foot long unit being placed on a 100-foot lot; and that he has no objection to the proposed 66-foot long units.

In rebuttal, John Kates, stated that this community has fire hydrants; that even homes 50-foot from the other can be effected by fire; and that none of the directly affected neighbors are in objection to the applications.

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. Mr. Mills stated that the park does have fire hydrants and that there are only two ways to rehab these older parks and that is by adding on or replacing with new units; and that newer units would be less of a fire hazard. 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 since there have been numerous variances granted in the park.** Vote carried 5 – 0.

**Case No. 8953 – Sun Communities** – west of Route One, southeast of Atlantic Avenue, being Lot E-10 within Sea Air Mobile City Mobile Home Park.

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

See Case No. 8952 for details.

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

variances be **granted for a 5.4-foot variance and since it will not alter the character of the neighborhood**. Vote carried 5 – 0.

**Case No. 8954 – Sun Communities** – west of Route One, south of Dodd Avenue, being Lot G-22 within Sea Air Mobile City Mobile Home Park.

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

See Case No. 8952 for details.

Minutes  
February 7, 2005  
Page 7

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. 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.

**Case No. 8955 – Sun Communities** – west of Route One, south of Sea Air Avenue, being Lot B-87 within Sea Air Mobile City Mobile Home Park.

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

See Case No. 8952 for details.

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. Mills, seconded by Mr. McCabe, and carried unanimously that the variances be **granted since it will not alter the character of the neighborhood**. Vote carried 5 – 0.

**Case No. 8956 – Sun Communities** – west of Route One, south of Atlantic Avenue, being Lot F-105 within Sea Air Mobile City Mobile Home Park.

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

See Case No. 8952 for details.

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

**Case No. 8957 – Wm. W. Noel, Jr.** – south of Route 54, east of Walnut Lane, being Lot 5 within Keen-Wik Subdivision No. 6 development.

A variance from the side yard setback requirement.

Minutes  
February 7, 2005  
Page 8

Ms. Hudson presented the case. William Noel was sworn in and testified requesting a 1.4-foot variance from the required 10-foot side yard setback requirement; that he wants to enclose an existing deck with screen; that the proposed porch will not encroach any further than the existing deck; and that the proposed deck is 3-foot high.

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 that the lot is undersized**. Vote carried 5 – 0.

**Case No. 8958 – Christopher and Bonnie Ullman** – south of Road 302-A, 400 feet west of Road 296, being Parcel B.

A variance from the side yard setback requirement.

Ms. Hudson presented the case. Bonnie Ullman and Don Smith were sworn in and testified requesting a 0.8-foot variance from the required 15-foot side yard setback requirement for an existing dwelling; that the encroachment was discovered at settlement; that only the back corner of the dwelling is encroaching into the setback requirement; and that a Certificate of Compliance was issued in 1999.

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

**Case No. 8959 – Wilbert H. and Ellen E. Belleman** – east of Route 24, south of White Pine Drive, being Lot 2 within Pines At Long Neck development.



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

Ms. Hudson presented the case. Connie Sebelca was sworn in with Dan Myers, Attorney, on behalf of the application and testified requesting a 0.4-foot variance from the required 10-foot side yard setback requirement and a 0.7-foot variance from the required 10-foot rear yard setback requirement of an existing manufactured home; that the unit was placed in 1997; that Larry's Homes placed the unit; that the unit is on a

Minutes  
February 7, 2005  
Page 9

block foundation; that the unit has been classified as a C-Grade dwelling by the Assessment Department; and there will be no adverse effect to the neighborhood.

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. Workman, and carried unanimously that variances be **granted since it was not created by the Applicant and is a minimum variance request**. Vote carried 5 – 0.

**Case No. 8960 – Patricia A. Bradley** – east of Route 24, north of Robin Hood Loop, being Lot 18-F within Sherwood Forest South development.

A variance from the front yard setback requirement.

Ms. Hudson presented the case. Michelle Hudson was sworn in with Dan Myers, Attorney, on behalf of the application and testified requesting a 0.6-foot variance from the required 30-foot front yard setback requirement for an existing dwelling; that the dwelling was placed by Nanticoke Homes in 1997; that to relocate the dwelling would create a hardship to the Applicant; that there will be no adverse effect to the neighborhood; and that there have been other variances granted in the development.

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

### **OLD BUSINESS**

**Case No. 8814 – Vivian Jives** – west of Road 313, 30 feet south of Holiness Lane, being Lot 3.

A variance from the side yard setback requirement and a special use exception to connect two (2) manufactured homes to make one (1) unit.

The Board discussed the case which has been tabled since October 18, 2004.

Minutes  
February 7, 2005  
Page 10

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

**Case No. 8938 – JBS Construction LLC** – east of Road 288A, east of Holly Oak Drive, being Lot 16 within Holly Oaks development.

A variance from the side yard setback requirement.

The Board discussed the case which has been tabled since January 24, 2005.

Motion by Mr. Hudson, 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. 8941 – Kenneth Durgin** – southeast of Route 22, north of Bay Berry Road, being Lot 86 within Pot Nets Bayside 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.

The Board discussed the case which has been tabled since January 24, 2005.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be **left open and that the Applicant re-apply for a variance from the maximum allowable lot coverage with no fee**. Vote carried 5 – 0.

### **OTHER BUSINESS**

**Case No. 8924 – Randall Nowell** – southwest of Road 395, south of Captains Lane, being Lot 45, Block 1 within Bayview Estates Development.

A variance from the side yard setback requirement.

Ms. Hudson read a letter from the Applicant requesting that the Board to allow them to reapply.

Motion by Mr. Hudson, seconded by Mr. Mills, and carried unanimously to **grant permission for the Applicant to reapply with the stipulation that the filing fee be paid prior to rescheduling.** Vote carried 5 – 0.

**Meeting Adjourned 8:47 p.m.**