



## *Board of Adjustment*

Agendas & Minutes

### **MINUTES OF FEBRUARY 9, 2004**

The regular meeting of the Sussex County Board of Adjustment was held Monday evening February 9, 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. Mills, seconded by Mr. McCabe, and carried unanimously to approve the Revised Agenda with the acceptance of the letter requesting that Case No. 8540 – Phillip T. and Frances W. Bradley to be heard at the beginning of the public hearings. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of February 2, 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. 8540 – Philip T. and Frances W. Bradley** – northeast of Road 211, 54 feet north of Lexington Drive.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Heidi Balliett, Attorney, was present on behalf of the application, requesting a 0.1-inch variance from the required 15-foot side yard setback requirement for an existing garage; that the encroachment was discovered by a survey done for the sale of the property; that the brick on the exterior of the garage is creating the encroachment; that the brick was added approximately three (3) years ago; and that the request is for a minimum variance and will not alter the character of the neighborhood.

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. McCabe, 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.

**Case No. 8526 – Cheryl Ciesa** – north of Road 234B, 153 feet east of Road 233.

A variance from the front yard setback requirement.

Mr. Rickard read a letter to the Board from the Applicant requesting to withdraw the application.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be **denied since the variance was not necessary**. Vote carried 5 – 0.

**Case No. 8527 – Ross and Melodie Cropper** – north of Road 402, 275 feet west of Road 403.

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

Mr. Rickard presented the case. Ross Cropper was sworn in and testified requesting a special use exception to operate a bed and breakfast facility; that the dwelling has six (6) bedrooms; that they will use two (2) bedrooms for the bed and breakfast; that the guests will have their own bathrooms and a sitting area; that they have ample space for parking; and that the bed and breakfast will be a nice amenity to the community.

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 special use exception be **granted since it will be a nice addition to the community**. Vote carried 5 – 0.

**Case No. 8528 – Fern T. Haug** – east of Road 302A, 2,190 feet south of Road 47.

A special use exception to place a manufactured home on a medical hardship basis.

Mr. Rickard presented the case. Robert and Fern Haug were sworn in and testified requesting a special use exception to place a manufactured home on a medical hardship basis; that she replaced an existing single-wide unit with a double-wide unit; that her son will live in the single-wide unit; and that they will share the same driveway.

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

**Case No. 8529 – Giovanna T. Sparagna and Richard M. Allen** – northwest of Route 16, northwest of Virginia Avenue, being part of Lots 2 and 5, Block D, within Broadkilm Beach Development.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Barbara O’Leary, Attorney, was present on behalf of the application, requesting a 20.2-foot variance from the required 30-foot front yard setback requirement for a dwelling; that the surveyor determined that the setback was measured from the foundation of the dwelling; and that due to the reconfiguration of the lots the front yard setback requirement is from Virginia Avenue.

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 due to the uniqueness of the lot; that the hardship was not created by the Applicant, since it will not alter the character of the neighborhood, and is a minimum variance**. Vote carried 5 – 0.

**Case No. 8530 – George Panarello** – southeast of Road 14A, 454 feet north of Route One.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. George Panarello was sworn in with Rob Witsil, Attorney, on behalf of the application, testified requesting a 20-foot variance from the required 60-foot front yard setback requirement; that the proposed building will be approximately 2,800-square-foot with a 1,400-square-foot second story; that the Applicant currently owns Wheels Bike Shop and has been forced out of his lease in his current location; that the proposed location is zoned commercial; that the proposed location will still be back further on the property than the surrounding businesses; that the second floor will be used for storage for the business; that the proposed building will be appealing to the eye; that the business is a great asset to the community; and that they submitted pictures.

Tony Pazzone, was sworn in and testified in support of the application and stated that he is the President of the Sussex Cyclists Bike Club; that the club has 80-plus members; that the business is important to the community; and that the building would not be able to be seen from the road if required to meet the required setbacks.

Eric Howard was sworn in and testified in support of the application and stated that he is also a bike enthusiast; and that the business is an asset to the community.

By a show of hands, 7 parties appeared in support of the application.

Mr. Rickard stated that the office received 3 letters 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 not alter the character of the neighborhood**. Vote carried 5 – 0.

**Case No. 8531 – Pat Arost** - north of Road 277, west of Route 16, being Lot 2 within George A. Metz Subdivision.

A variance from the minimum square footage requirement to place a multisectional manufactured home.

Mr. Rickard presented the case. Pat Arost was sworn in and testified requesting a 20,670-square-foot variance from the required 32,670-square-foot requirement for a parcel; that she plans to remove all rental units and sell land home packages; that she obtained a placement permit to replace an existing unit; that the previous unit was removed from the property; that the unit on Lot 1 and Lot 10 will be removed; that she is trying to improve the property and increase property value; that the remaining lots will have stick built dwellings; that the County Constable made her aware of the violation; that the unit will have a block foundation and central heating and air conditioning; that the unit will meet the required setback requirements; and that she submitted pictures.

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 **left open for the Planning and Zoning Office to obtain more information for the Board**. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously to **re-open the hearing**. Vote carried 5 – 0.

Mr. Rickard stated the Assessment records show the first unit was removed January 7, 2003 and the Applicant obtained a placement permit June 30, 2003.

Motion by Mr. Workman, seconded by Mr. McCabe, and carried unanimously that the case be **tabled until March 1, 2004**. Vote carried 5 – 0.

**Case No. 8532 – Jimmie Nanney** – west of Route 5, 1,200 feet north of Route 9.

A variance from the minimum square footage requirement to place a multisectional manufactured home.

Mr. Rickard presented the case. Jimmie and Jean Nanney were sworn in and testified requesting a 8,270-square-foot variance from the required 32,670-square-foot requirement for a parcel; that he is replacing an existing unit with a new 2002 triple-wide manufactured home; that the footers for the new unit are already poured; that Delmarva Homes obtained all the proper permits; that they own the adjacent property; and that there are other manufactured homes in the area.

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. Workman, and carried unanimously that the case be **tabled until March 1, 2004**. Vote carried 5 – 0.

**Case No. 8533 – Dorothy L. Quillen** – northwest of Road 283, 1,200 feet southwest of Road 275.

A special use exception from the provisions and requirements to retain a manufactured home on a parcel, a special use exception to retain a commercial dog kennel, a variance from the front yard setback requirement, and a variance from the setback requirements for a commercial dog kennel.

Mr. Rickard presented the case. Dorothy L. Quillen was sworn in and testified requesting a special use exception to retain a manufactured home on a parcel less than five (5) acres, a 24.4-foot variance from the required 30-foot front yard setback requirement, a special use exception to retain a commercial dog kennel on less than five (5) acres, a 2.108-acre variance from the required 5-acre requirement for a commercial dog kennel and a 167-foot variance from the required 200-foot setback requirement for a commercial dog kennel; that she plans to subdivide the parcel and sell the manufactured home and dog kennel to her son; that a dwelling and cottage are also on the property; and that all the homes provide housing for employees of the kennel.

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 and special use exceptions be **granted since it will not alter the character of the neighborhood**. Vote carried 5 – 0.

**Case No. 8534 – Phyllis Cordrey** – west of Road 453, 167 feet north of Road 454B.

A variance from the side yard setback requirement for a poultry house.

Mr. Rickard presented the case. Phyllis Cordrey and John Ennis were sworn in and testified requesting a 32.5-foot variance from the required 50-foot side yard setback requirement for a poultry house; that she currently owns three (3) poultry houses; that due to health problems she has to sell the poultry houses; that she wants to subdivide the portion of the property with the poultry houses; that she wants to retain her dwelling and an existing equipment shed; that the property with the poultry houses will have its own access; that the variance will allow the new trees to remain; and that she submitted pictures.

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**.  
Vote carried 5 – 0.

**Case No. 8535 – John and Patricia Dorney** – north of Route 54, east of Pintail Drive, being Lot 30, Block I, within Swann Keys Development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. John Dorney was sworn in and testified requesting a 3-foot variance from the required 10-foot side yard setback requirement; that he wants to replace an existing manufactured home with a modular home; that he wants the proposed dwelling to be placed the same distance from the property line as the existing unit; and that the proposed dwelling will measure 26' x 54'.

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**.  
Vote carried 5 – 0.

**Case No. 8536 – Donald L. and Bertha L. Zern** – northeast of Road 279, intersection of Woodland Circle and Woodland Court North, being Lot 1 and ½ of Lot 2 within Angola-By-The-Bay Development.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Donald Zern was sworn in and testified requesting an 8-foot variance from the required 30-foot front yard setback requirement.

for a proposed addition; that the addition is needed for more storage; that the addition will measure 12' x 20'; that the proposed addition will help the existing dwelling conform with the community; and that the Homeowner's Association will support the Board's decision.

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 for 8-foot since it will not alter the character of the neighborhood and since there was no opposition**. Vote carried 5 – 0.

**Case No. 8538 – Raymond T. Absher, Jr.** – west of Road 632, 3,500 feet north of Road 611.

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

No one appeared on behalf of the application.

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

**Case No. 8539 – Ernest Sando** – northeast of Route One, Lake Drive, being Lot 19 and part of Lot 20 within Silver Lake Shores Development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Ernest Sando was sworn in and testified requesting a 5-foot variance from the required 10-foot side yard setback requirement for a proposed addition; that the proposed addition will measure 19' x 19'; that the dwelling was built in 1928; that he purchased the property in 1995; that the proposed addition will conform with the existing dwelling; and that it will extend the kitchen area.

Mr. Rickard stated that the detached garage on the submitted survey is a non-conforming structure.

Mr. Rickard stated that the office received 3 letters in support of 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 variance be **granted since it will not alter the character of the neighborhood and will not further encroach into the setback than the existing dwelling**. Vote carried 5 – 0.

## OLD BUSINESS

**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 requirement.

The Board discussed the case which has been tabled since January 12, 2004.

Mr. Rickard read the Applicant's letter to withdraw their application.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variance be **denied**. 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.

The Board discussed the case.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the case be **denied**. 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.

The Board discussed the case which has been tabled since January 12, 2004.

Motion by Mr. Hudson, seconded by Mr. Mills, and carried unanimously that the variances be **granted with the stipulation that they used a shared driveway and since it will not alter the character of the neighborhood**. 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.

The Board discussed the case which has been tabled since February 2, 2004.

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 was granted for this variance previously**. 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.

The Board discussed the case which has been tabled since February 2, 2004.

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

**Meeting Adjourned 9:02 p.m.**