



Board of Adjustment

Agendas & Minutes

MINUTES OF MARCH 8, 2004

The special meeting of the Sussex County Board of Adjustment was held Monday evening March 8, 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, and Mrs. Norwood – Recording Secretary.

Motion by Mr. McCabe, seconded by Mr. Mills, 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 March 1, 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. 8497 – Robert Derrickson – south of Route One, 566 feet west of Road 276.

A special use exception to replace a billboard and a variance from the side yard setback requirement.

Mr. Rickard presented the case. Robert Derrickson was sworn in with Jim Fuqua, Attorney, on behalf of the application, and testified requesting a 45-foot variance from the required 50-foot side yard setback requirement for a billboard and a special use exception to replace a billboard; that the Applicant has a contract to purchase the property; that the existing billboard is a wooden 3-pole structure; that the proposed billboard will be a steel mono-pole structure; that the existing building will be torn down and replaced with a new structure; that the current location of the billboard is in the center of the parking lot; that the proposed location will not obstruct vision; that the neighboring property owners are in support of the application; and that the variance will not alter the character of the neighborhood.

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.

At the conclusion of the public hearings, the Chairman referred back to this case. Motion by Mr. Workman, seconded by Mr. McCabe, and carried unanimously that the variance and special use exception be **granted since it will not alter the character of the neighborhood**. Vote carried 5 – 0.

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Case No. 8498 – John and Terry Scordo – south of Road 361-A, east of Argyle Drive, being Lot 3 within Argyle Court Development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Greg Hastings was sworn in and testified requesting a 1-foot variance from the required 10-foot side yard setback requirement for a detached garage; that he designed the detached garage; that he assumed the property to be within the town limits of Bethany Beach; that the surveyor did not inform him of the setback requirements; that the Applicant obtained a building permit; and that they received a violation notice from the Planning and Zoning Department.

Mr. Rickard stated that the office received 1 letter 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. Hudson, and carried unanimously that the variance be **granted**. Vote carried 5 – 0.

Case No. 8499 – Ocean Atlantic Associates – northeast of Road 270, 141 feet southwest of Route One.

A special use exception to replace a billboard and a variance from the front yard and side yard setback requirement.

Mr. Rickard presented the case. Wendy Baker was sworn in and testified requesting a special use exception to replace a billboard and a 15-foot variance from the required 25-foot front yard setback requirement and a 27-foot variance from the required 50-foot side yard setback requirement; that they want to upgrade the billboard from a wooden 3-pole billboard to a steel mono-pole structure; that the proposed billboard will be in the same location as the existing billboard; and that the Board approved previous Case No. 7048 for the existing billboard in 2000.

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 and special use exception be **granted since it will not alter the character of the neighborhood**.

Vote carried 5 – 0.

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Case No. 8500 – J.A. Moore Construction LLC – west of Road 273, west of Corofin Lane, being Lot 107 within Kinsale Glen Development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Gerald Lynn Johnson was sworn in and testified requesting a 1.3-foot variance from the required 10-foot side yard setback requirement for an existing dwelling; that the masonry contractor laid the foundation from the bump-out rather than the corner of the dwelling; that the HVAC unit was moved to the opposite side of the dwelling to comply with the required setbacks; that they have taken steps to correct any future problems; and that they have final placement surveys done on all properties.

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 for 1.3-foot since it will not alter the character of the neighborhood and since it is a minimum variance**. Vote carried 5 – 0.

Case No. 8501 – Irma Wolfe-Figueroa – southwest of Road 318, 1,425 feet southeast of Road 321, being Lot 20.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Irma Wolfe-Figueroa was sworn in and testified requesting a 5-foot variance from the required 15-foot side yard setback requirement for a proposed attached garage; that the garage will measure 24' across to accommodate 2-cars; that she is requesting a 5-foot variance to include the roof overhang; that she cannot build the proposed garage any further back on her property due to her existing septic system; that the proposed garage will have an unfinished upstairs; that they would like to finish the upstairs in the future; that there will be no apartment over the garage; and that

to the rear of the proposed garage there are plans for an extra bedroom with a living room and more storage.

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

Mr. Rickard read 1 letter in opposition to the application.

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

Case No. 8502 – Harry and Jackqueline Fowler – east of Road 261, north of Valley Drive, being Lot 23 within Hills Edge Development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Michael Kauffman was sworn in and testified requesting an 8-foot variance from the required 10-foot side yard setback requirement for an existing manufactured home; that the unit has been on the lot since the 1980's; that a Certificate of Occupancy was issued; and that the variance will have no adverse affect on the neighborhood.

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

Case No. 8503 – John F. Bender and Colin P. Hood – intersection of Canal Road and Bay Road.

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

Mr. Rickard presented the case. John Bender was sworn in and testified requesting a 5-foot variance from the required 30-foot front yard setback requirement for

a porch and dwelling, a 6.2-foot variance from the required 10-foot side yard setback requirement for an existing dwelling and a sunroom and a 2.4-foot variance from the required 5-foot side yard setback requirement for an existing shed; that they want to replace the existing shed type roof on the dwelling with a gable roof; that they want to extend the existing front porch further down the front of the dwelling; that they purchased the property in 2003; that the survey requested by the mortgage company showed the violations; and that he submitted 3-letters in support of the application.

By a show of hands, 2 parties appeared in support of the application.

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

Case No. 8504 – P. Michael and Charles Hurd – east of Route 22, southwest of Shark's Tooth Drive, being Lot 11 within Pot Nets Seaside 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.

Mr. Rickard presented the case. Michael Hurd was sworn in and testified requesting a 6.2-foot variance from the required 20-foot separation requirement between units in a mobile home park for a screen porch and a 2-inch variance from the required 10-foot side yard setback requirement for a manufactured home; that he obtained a building permit for the screen porch; that when he applied for his Certificate of Occupancy the inspector made him aware of the violation; that Bruce Smith was his builder; that Pot Nets Seaside is in support of the application; that the neighbors are in support of the application; and that he 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. Workman, and carried unanimously that the variances be **granted since it will not alter the character of the neighborhood and with a letter sent to the builder**. Vote carried 5 – 0.

Case No. 8505 – Betty C. Steele – north of Route 26, south of Road 343, being Lot 13 within Herschel H. Quillen Development.

A variance from the minimum lot size and lot width for a parcel.

Mr. Rickard presented the case. Charles Steele, III and Betty C. Steele were sworn in and testified requesting a 1,705-square-foot variance from the required 32,670-square-foot lot size for parcel 13, a 4,037-square-foot variance from the required 32,670-square-foot for Lot 2, and a 9.86-foot variance from the required 150-foot lot width requirement for Lot 2; that she has owned the property since the 1960's; that she wants to subdivide and give the land to her children; that the surrounding properties have all been subdivided; and that they submitted an approval letter from the Department of Transportation.

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

Case No. 8507 – Jeffrey and Karen Treuting - north of Road 406, 153 feet northeast of Road 405.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Karen and Jeffrey Treuting were sworn in and testified requesting a 40-foot variance from the required 50-foot side yard setback requirement for a horse stable; that the stable measures 12' x 32'; that they did not realize the setbacks for a stable and shed were different; that they lined the stable with the other out buildings on the property; that their closest neighbor is in support of the application; and that the stable would be moved closer to the neighbor in opposition if they were made to comply with the required setback.

Mr. Rickard read 1 letter in opposition 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 variance be **granted since it will not alter the character of the neighborhood**. Vote carried 5 – 0.

Case No. 8508 – Carol Braverman – northwest of Route 16, east of West Virginia Avenue, being Lot 6, Block D, Broadkilm Beach.

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

Mr. Rickard presented the case. Carol Braverman was sworn in and testified requesting a 7-foot variance from the required 10-foot side yard setback requirement and a 20-foot variance from the required 30-foot front yard setback requirement for a proposed dwelling; that the existing dwelling was built in 1945; that the proposed dwelling will be within the same footprint as the existing dwelling; that the only difference is the proposed decking that will allow access to the proposed dwelling; that the proposed dwelling is in character with the neighboring properties; and that she submitted a survey.

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By a show of hands, 3 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. 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. 8509 – Gordon and Lynne Emminizer – south of Route 54, east of Laws Point Road, being Lot 34, Block E, Swann Keys Development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Gordon and Lynne Emminizer were sworn in and testified requesting a 4-foot variance from the required 10-foot side yard setback requirement for a proposed sunroom on an existing deck; that the existing deck measures 16' x 16'; that they want to extend the deck and build a sunroom on the deck; and that there have been numerous variances granted in the development.

Mr. Rickard stated that the office received 1 letter 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. Hudson, and carried unanimously that the variance be **granted since it will not alter the character of the neighborhood and since numerous variances have been granted in the development**. Vote carried 5 – 0.

Case No. 8510 – Wayne A. Pepper – east of U.S. Route 113, 400 feet north of Road 432.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Wayne A. Pepper was sworn in and testified requesting a 46-foot variance from the required 60-foot front yard setback requirement for a handicap ramp; that the existing dwelling is non-conforming; that he has converted an existing dwelling into an office; that he has created a new entrance on the side of the building; that the ramp is required by the Building Code Department; and that he submitted pictures.

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

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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 since it is a minimum variance and due to the uniqueness of the lot.**
Vote carried 5 – 0.

Case No. 8511 – Audrey K. and Charles E. Craft, Jr. – north of Road 227, 430 feet east of Road 229, being Parcel A.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Charles Craft, Jr. was sworn in and testified requesting a 6.6-foot variance from the required 40-foot front yard setback requirement for an existing manufactured home; that he set the unit in line with an existing unit on the adjacent property; that he obtained a placement permit; that he has just started his own business building spec homes; and that he has been a mason contractor for 14-years.

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 since it will not adversely affect the neighborhood.** Vote carried 5 – 0.

OLD BUSINESS

Case No. 8545 – Gerald Wayne Hartsell – south of Road 381A, 1,060 feet west of Road 370B.

A variance from the maximum height requirement for a fence.

The Board discussed the case which has been tabled since March 1, 2004.

Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously that the variance be **granted with the stipulation that the variance is for that side of the property only**. Vote carried 5 – 0.

Case No. 8555 – Rojan, Inc. – intersection of Route One and Road 270-A.

A variance from the front yard setback requirement and a variance from the minimum parking space requirements.

The Board discussed the case which has been tabled since March 1, 2004.

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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 due to the type of use for the addition**. Vote carried 5 – 0.

OTHER BUSINESS

Case No. 8096 – Dr. and Mrs. Robert C. Deckmann – south of Road 88, east of Cowpet and Heronwood Drive, being Lot 7, within Cowpet Bay Estates and Heronwood Subdivision.

A variance from the maximum height requirement for a structure.

Mr. Rickard read a letter from the Applicant requesting a time extension.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the time extension be **granted for a period of six (6) months**. Vote carried 5 – 0.

Meeting Adjourned 9:05 p.m.