



Board of Adjustment

Agendas & Minutes

MINUTES OF MARCH 15, 2004

The regular meeting of the Sussex County Board of Adjustment was held Monday evening March 15, 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 as circulated. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of March 8, 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. 8556 – George Coverdale and Pauline Temple – north of Road 270-A, 30 feet northeast of Route One.

A special use exception to replace an existing billboard as a two-sided billboard.

Mr. Rickard presented the case. Darlene Matthes was sworn in and testified requesting a special use exception to replace an existing billboard as a two-sided billboard; that the existing billboard is non-conforming; that the proposed billboard will be a two-sided, mono-pole steel billboard structure; that the billboard will measure 12' x 48'; that the proposed billboard will not meet the required side yard setback requirement; and that she submitted pictures.

William Tyndall, was sworn in and testified in opposition to the application and stated; that he was representing the adjacent property owner; that the existing business is opposed to the proposed billboard having a second side facing their property; that they would like to use that side to advertise their business; and that the proposed billboard will distract from their existing sign.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the case be **tabled until the Applicant can re-apply for the required variance and that the filing fee be waived**. Vote carried 5 – 0.

Case No. 8557 – Bruce W. King and Carl P. King, Jr. – north of Route One, west of corner of Tulip Drive.

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A special use exception to replace an existing billboard.

Mr. Rickard presented the case. Darlene Matthes was sworn in and testified requesting a special use exception to replace an existing billboard; that the proposed billboard will be a steel mono-pole structure; that the billboard will measure 12' x 48'; that the proposed billboard will not meet the required side yard setback requirement; 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 **tabled until the Applicant can re-apply for the required variance and that the filing fee be waived**. Vote carried 5 – 0.

Case No. 8558 – William Gardner – east of Road 331, 500 feet south of Road 331-A.

A variance from the rear yard setback requirement.

Mr. Rickard presented the case. William Gardner was sworn in and testified requesting a 6.3-foot variance from the required 10-foot rear yard setback requirement for a proposed detached garage; that the proposed garage will measure 24' x 40'; that he purchased the property 3-years ago; that the existing garage was built 9-years ago; that the existing garage burnt down; and that the proposed location is the best location for the proposed garage.

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 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. 8559 – Serafin Buendia – south of Road 368, west of Greenwich Boulevard, being Unit 44 within Southampton Development.

A variance from the separation requirement between units.

Mr. Rickard presented the case. Searfin Buendia was sworn in and testified requesting a 1-foot variance from the required 20-foot separation requirement between units; that his builder, Brennan Brothers, obtained the building permit; that the Planning

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and Zoning Inspector made him aware of the violation; that he could provide the mailing address of his builder to the Board.

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. Mills, seconded by Mr. Hudson, and carried unanimously that the variance be **granted and that a letter be sent to the builder**. Vote carried 5 – 0.

Case No. 8560 – OMF Contractors Inc. – south of Road 312 (River Road), 2,034 feet west of road 297, being Lot 11 within Riverdale Park Development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Oscar Flores was sworn in and testified requesting a 7.4-foot variance from the required 10-foot side yard setback requirement for a dwelling, a 0-foot variance from the required 10-foot side yard setback requirement for an HVAC unit and a 3.5-foot variance from the required 10-foot side yard setback requirement for a shed; that he obtained the building permit for the dwelling; that the dwelling was built within the same footprint as the existing dwelling; that he can move the HVAC unit to comply with the setback requirement; that he did not obtain a building permit for the shed; that the current location of the shed does not block anyone's view; that he received notice from the Planning and Zoning Department that the shed and dwelling did not comply with the required setbacks; and that the Certificate of Occupancy will not be issued until after the Board's decision.

Mr. Rickard stated that the office received 3 letters in opposition to 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. Workman, 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 variance be **granted for the dwelling only**. Vote carried 5 – 0.

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Case No. 8561 – Judy Ann and Lemuel C. Hitchens, III – southwest of Route 54, north of Van Buren Avenue, being Lot 14, Block 4, within Edgewater Acres Development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. John Sauger was sworn in and testified requesting a 3.8-foot variance from the required 10-foot side yard setback requirement for a proposed deck; that the proposed deck will have a storage area underneath; that the proposed deck will run the length of the existing dwelling; and that he submitted pictures.

Mr. Rickard stated that the office received 4 letters in support of the application.

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, 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. 8562 – Art Weldin – west of Road 357, 1,000 feet north of Road 360, being Lots 1, 2, and 3 within Lakes At Old Mill Development.

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

Mr. Rickard presented the case. Art Weldin and Rob Hodack were sworn in and testified requesting a special use exception to place a manufactured home type structure as a sales office; that the unit will only be needed for approximately a 1-year period; that the unit will be removed once a model home is complete; that the unit will measure 24' x 60'; that the hours of operation will be 10:00 a.m. to 5:00 p.m.; that there will be no kitchen; that the unit will have landscaping and adequate parking; and that he submitted a site plan.

Mark Culp was sworn in and testified in opposition to the application and stated that he owns a bed and breakfast facility on the adjacent property; that he is opposed to manufactured homes in the area; that he is not opposed to the proposed temporary sales office.

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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 affect on the neighborhood**. Vote carried 5 – 0.

Case No. 8563 – Scott A. and Maria J. C. Landry – north of Road 276, 420 feet southwest of Woodland Avenue.

A variance from the minimum lot width and square footage for a parcel and a variance from the rear yard setback requirement.

Mr. Rickard presented the case. Scott Landry was sworn in and testified requesting a 20-foot variance from the required 100-foot lot width requirement, a 12,000-square-foot variance from the required 20,000-square-foot requirement and a 7-foot variance from the required 20-foot rear yard setback requirement for a dwelling; that the dwelling was built in the 1720's; that he wants to create the second building lot for his father; that similar variances have been granted in the area; that he will tear down the existing detached garage and shed if necessary; and that he submitted a notebook.

Arlene Monty was sworn in and testified in opposition to the application and stated that she is concerned the parcels will be considerably smaller than the surrounding properties in the area; that she is concerned for her property value; and that there will not be adequate parking.

Corinne Leahman was sworn in and testified in opposition to the application and stated that she is also concerned with the proposed size of the properties; and that she purchased land here due to the larger size lots.

In rebuttal, Scott Landry, stated that the opposition does not approve of the existing dwelling; and that upon approval of the requested variance he would be improving the properties.

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

Case No. 8564 – Dennis and Linda Morena – north of Route 54, 1,800 feet west of Route One, being Lot 2.

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

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Mr. Rickard presented the case. Linda Morena was sworn in and testified requesting a 12-foot variance from the required 40-foot front yard setback requirement, a 7-foot variance from the required 10-foot side yard setback requirement and a 4.67-foot variance from the required 15-foot corner side setback requirement for a proposed modular dwelling; that the existing manufactured home will be removed; that there will be a deck 10' x 20'; and that they will have adequate parking.

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. 8565 – S. Carter and Cheryle Knotts – Route 22, northwest of Grove Circle Road, being Lot 34 within White House Beach Mobile Home Park.

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

Mr. Rickard presented the case. Carter Knotts was sworn in and testified requesting a 7.5-foot variance from the required 20-foot separation requirement between units, a 1-foot variance from the required 20-foot separation requirement between units and a 10-foot variance from the required 20-foot separation requirement between units; that the unit was placed in the 1960's; that he purchased the unit in August 2002; that he replaced an existing deck; that he obtained the building permit; that the permit clerk did not have the 20-foot separation requirement on the application; and that the park manager was in support of the application.

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 variances be **granted since it will not alter the character of the neighborhood**.

Vote carried 5 – 0.

Case No. 8566 – Joseph Martellini – north of Road 17, 2,040 feet west of Road 52C.

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

Mr. Rickard presented the case. Joseph Martellini and Maxwell Morris were sworn in and testified requesting a 35.81-foot variance from the required 150-foot lot

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width requirement and a 1,095-square-foot variance from the required 32,670-square-foot requirement for Lot 3, a 21.37-foot variance from the required 150-foot lot width requirement and a 986-square-foot variance from the required 32,670-square-foot requirement for Lot 2, and a 9.08-foot variance from the required 150-foot lot width requirement and a 962-square-foot variance from the required 32,670-square-foot requirement for Lot 1; that he purchased the property with the intention to subdivide and build spec homes; that Lot 1 will use an existing driveway; that Lots 2 and 3 will use a combined entrance approved by Department of Transportation; that the existing dwelling is non-conforming; and that the proposed dwellings will meet all required setback requirements.

Pam Allen was sworn in and testified in opposition to the application and stated that she owns property across the road; that she is concerned on the impact the proposed subdivision will have on the rural setting of the community; and that the proposed subdivision is not in character with the neighborhood.

Leslie Bixler was sworn in and testified in opposition to the application and stated that she is concerned for the precedent the approval of this subdivision would set; and that she is not opposed to a subdivision of just 2 lots.

Steven Vickers was sworn in and testified in opposition to the application and stated that he owns an adjacent farm and he has no plans of developing the land; and that he is concerned for over development in the area.

Steven Bixler was sworn in and testified in opposition to the application and stated that he has no objection to the subdivision of two building lots; and that he feels 3 lots is out of character with the neighborhood.

By a show of hands, 13 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. Mills, seconded by Mr. Workman, and carried unanimously that the variances be **denied since it does not meet the standards for granting a variance**. Vote carried 5 – 0.

Case No. 8567 – Ronald Milligan – south of Road 302-A, west of Avalon Drive, being Lot 19, Block B, within Avalon Park Development.

A variance from the front yard setback requirement.

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Mr. Rickard presented the case. Florence Milligan was sworn in and testified requesting a 10-foot variance from the required 30-foot front yard setback requirement for a detached carport; that the detached carport measures 420-square-foot; that they purchased the carport from a company out of North Carolina; that they were not aware that a building permit was needed; and that the Planning and Zoning Inspector made them aware of the violation.

Mr. Rickard stated that the office received 2 letters in support of the application.

Mr. Rickard stated that the office received 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. Mills, seconded by Mr. Workman, 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 variance be **granted since it will not alter the character of the neighborhood**. Vote carried 5 – 0.

Case No. 8568 – Thomas L. Krieger – south of Route One, north of Sea Air Avenue, being Lot A-34 within Sea Air Mobile City Mobile Home Park.

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

Mr. Rickard presented the case. Thomas Krieger was sworn in and testified requesting a 9.7-foot variance from the required 20-foot separation requirement between units for a deck and a 8.4-foot variance from the required 20-foot separation requirement between units for a shed in a mobile home park; that he purchased a new manufactured unit placed by the mobile home park; that the proposed deck and shed are in character with the neighborhood; and that the neighbor is in support 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.

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Case No. 8569 – Gerald and Karen Hirst – north of Road 273A, south of Fourth Street, being Units 204, 205, 206, and 207 within Bay Vista Development.

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

Mr. Rickard presented the case. Gerald Hirst was sworn in and testified requesting a 6.1-foot variance from the required 10-foot side yard setback requirement and a 10.5-foot variance from the required 20-foot rear yard setback requirement for a proposed detached garage and proposed addition; that the proposed garage will measure 24' x 42'; that the proposed addition will measure 14' x 28'; that the proposed addition will not encroach any further into the setback than the existing dwelling; that the proposed garage will line up with the existing driveway; that the garage will be used to store his car collection; and that the existing outside shower will be removed.

Irwin Daniels was sworn in and testified in opposition to the application and stated that his front door will face the proposed garage; that the variance request will leave only a small alley way between their properties; that he strongly opposes reducing the side yard setback requirement for the proposed detached garage; and that he submitted pictures.

In rebuttal, Gerald Hirst, stated that the proposed garage will face a side entrance on the oppositions property; that he and Mr. Daniels replaced an existing fence; and that he will be removing an existing shed.

By a show of hands, 2 parties appeared 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. McCabe, seconded by Mr. Mills, and carried unanimously that the case be **tabled until April 5, 2004**. Vote carried 5 – 0.

Case No. 8570 – Raymond and Sherry White – west of Road 213, 2,400 feet south of State Street.

A variance from the minimum lot width requirement for a parcel.

Mr. Rickard presented the case. Sherry White was sworn in and testified requesting a 96.5-foot variance from the required 150-foot lot width requirement for a parcel; that she plans to place a double-wide manufactured home on the proposed lot; and that the unit will be on a block foundation.

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

OLD BUSINESS

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.

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

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 due to the uniqueness of the property which is improving the area in a positive way**.
Vote carried 5 – 0.

Case No. 8550 – Billie Ann Stevens – northeast of Road 385, 1,410 feet northwest of Road 17.

A variance from the minimum lot width requirement for a parcel.

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

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the variance be **denied since it does not meet the standards for granting a variance**.
Vote carried 4 – 0 with Mr. McCabe abstaining.

OTHER BUSINESS

Case No. 8543 – Gemcraft Homes – north of Road 277, west of Road 279, being Lot 37 within Bay Ridge Woods Development.

A variance from the side yard setback requirement.

Mr. Rickard read the letter requesting to the Board to allow them to reapply.

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

Meeting Adjourned 9:30 p.m.