



Board of Adjustment

Agendas & Minutes

MINUTES OF APRIL 4, 2005

The regular meeting of the Sussex County Board of Adjustment was held on Monday evening, April 4, 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, 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 21, 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. 9006 – Frank S. Krasnodemski, Jr. – southwest of Road 395, west of North Star Circle, being Lot 5, Section 5 within Bay View Estates development.

A variance from the side yard setback requirement.

Ms. Hudson presented the case. Frank Krasnodemski, Jr. was sworn in and testified requesting a 1.3-foot variance from the required 5-foot side yard setback requirement for a shed; that when applied for the proposed shed was going to measure 10' x 20'; that the proposed shed is going to measure 8' x 22'; that the smaller shed will meet the County setback requirements; and that the Homeowner's Association 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. McCabe, seconded by Mr. Workman, and carried unanimously that the variance be **denied since the variance is now unnecessary due to the reduction in the size of the shed.** Vote carried 5 – 0.

Case No. 9007 – Scott Leshner – east of Road 273A, northeast of Bay View Road, being Units C-14 and C-15 within Bay Vista On Rehoboth Beach development.

A variance from the front yard setback requirement.

Minutes
April 4, 2005
Page 2

Ms. Hudson presented the case. Scott Leshner and John Patrick Coyle were sworn in and testified requesting a 4.6-foot variance from the required 30-foot front yard setback requirement for the proposed overhang of a stoop; that the dwelling exists; that they plan to build a second story addition; that the proposed roof will extend over an existing stoop; that the older dwelling makes the property unique; that the proposed roof is within the character of the neighborhood; that the stoop was not created by the Applicant; that the request is the minimum variance to afford relief; that the shape of the lot is also unique; and that the neighbors have no objection 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. McCabe, and carried unanimously that the variance be **granted since it meets the standards for granting a variance.** Vote carried 5 – 0.

Case No. 9008 – Fox Glen Limited Liability Company – south of Road 531, east of Fox Glen Drive, being Lot 8 within Fox Glen development.

A variance from the side yard setback requirement.

Ms. Hudson presented the case. John Tarburton, Attorney, on behalf of the application testified requesting a 0.2-foot variance from the required 15-foot side yard setback requirement for an existing dwelling; that the Certificate of Compliance was issued; that a survey done for a real estate transaction discovered the encroachment; that there was a distinct discrepancy between the developer and the surveyor; that the surveyor measured from the siding on the dwelling and the foundation; that the dwelling did not meet the required setbacks from either measurement; that the variance will not alter the character of the neighborhood; that the variance is not detrimental to the adjacent lot; that the proposed dwelling for the adjacent lot will be at least 40-foot from this dwelling; that it is the minimum variance request to grant relief; and that if need be the developer will convey land to bring the dwelling into compliance.

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 variance be **granted since it will not alter the character of the neighborhood and since it will have no adverse effect to the neighborhood**. Vote carried 5 – 0.

Case No. 9009 – Charles Brown – south of Route 22, southeast of Grove Circle, being Lot 56 within White House Beach Mobile Home Park.

Minutes
April 4, 2005
Page 3

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

Ms. Hudson presented the case. Charles Brown was sworn in and testified requesting an 8.4-foot variance from the required 20-foot separation requirement between units in a mobile home park for a proposed manufactured home and a 2-foot variance from the required 5-foot side yard setback requirement for a deck; that the existing unit is a 1969 model with a porch; that the unit is in poor condition; that the proposed unit will measure 23'8"x 48'; that the entire park is upgrading; that the property cannot be otherwise developed; that it will not alter the character of the neighborhood; that it is the minimum variance to afford relief; and that the lot is unique in size.

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 meets four of the standards for granting a variance and the Applicant did not create the layout of the mobile home park**. Vote carried 5 – 0.

Case No. 9010 – Moonlight Architecture, Inc. – south of Route One, 500 feet west of Dodd Avenue, being Lot 22 and part of Lot 24, Block B within Ann Acres development.

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

Ms. Hudson presented the case. John R. Yokley was sworn in and testified requesting a 4-foot variance from the required 10-foot side yard setback requirement and a 12.2-foot variance from the required 30-foot front yard setback requirement; that he plans to construct a second story addition on his existing dwelling; that the existing dwelling is non-conforming; that the proposed second story addition will encroach any further into the setback than the existing dwelling; that he would like to build a porch on the front of the dwelling; that the porch will help with the aesthetics of the proposed

addition; that a second story addition cannot be built if made to comply with the required setbacks; that the proposed addition and porch is consistent with the changing neighborhood; that it is the minimum variance to afford relief; that the existing detached garage is sometimes rented out; that the detached garage is mostly used by family members that visit; that he was not aware that separate meters were not permitted; that the buildings existed when he purchased the property in 1989; that there is a large driveway to accommodate parking; and that there will be a porch on the rear of the dwelling.

Minutes
April 4, 2005
Page 4

Robert Kollett was sworn in and testified in opposition and stated that he is an adjacent property owner; that the existing dwelling is less than 6-foot from his property line; that a second story addition will totally block any view and light into his dwelling; that the garage has been rented seasonally; that there is enough bedding for 8-people; and that the proposed addition needs to be built at least 10-foot from their property line.

Diane Pringle was sworn in and testified in opposition to the application and stated that she is also an adjacent property owner; that there is no hardship to the Applicant; and that there are extra bedrooms already available.

Kay Wheatley was sworn in and testified in opposition to the application and stated that she owns property across the street; that the only permitted parking on the street is on her side of the street; that she is concerned that building further into the front yard setback will increase the parking problem; that most dwellings on this street are 40-years old or more; that there is one new dwelling on the street which was built within the required setback requirements; and that she believes the proposed porch will encroach to far into the average front yard setback for the street.

In rebuttal, John Yokley stated that around the corner a second story addition was added to an existing dwelling; that the dwelling is old and in dire need of repair; that to build an addition inset from the dwelling would be very difficult; and that a deck is going to built in the rear of the dwelling.

By a show of hands, 5 parties appeared in opposition to the application.

Motion by Mr. Mills to deny the case. Motion failed due to the lack of a second.

Motion by Mr. McCabe, seconded by Mr. Hudson, and carried unanimously that the case be **tabled until April 18, 2005**. Vote carried 4 – 0 – 1.

Case No. 9011 – Ralph A. Timmons, Jr. – north of Road 341, east of West Lagoon Road, being Lot 90, Section 2 within Dogwood Acres development.

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

Ms. Hudson presented the case. Ralph A. Timmons, Jr. was sworn in and testified requesting a 5-foot variance from the required 10-foot side yard setback requirement and a 15-foot variance from the required 30-foot front yard setback requirement for a proposed dwelling; that the existing manufactured home was removed; that the proposed 2-story dwelling will be on pilings; that the variance is unique since the lot is small; that the lot is 100-foot in length; that a portion of the lot is in the water; that it will not alter

Minutes
April 4, 2005
Page 5

the character of the neighborhood; that there are other dwellings on piling in the development; that there will be no hardship to anyone; and that he submitted pictures.

Edna Jacona was sworn in and testified in opposition to the application and stated that she owns the adjacent lot; that the proposed dwelling will be too close to her property line; that she is concerned it will create a fire hazard; and that the Applicant owns the other adjacent lot and will not be encroaching on that lot at all.

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

By a show of hands 1 party 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 and since there have been several variances granted in the development.**
Vote carried 4 – 1.

Case No. 9012 – Bonnie Layton – west of Road 62, 997 feet south of Road 74.

A special use exception to connect two (2) manufactured homes to make one (1) unit.

Ms. Hudson presented the case. Bonnie and Ronnie Layton were sworn in and testified requesting a special use exception to connect two (2) manufactured homes to make one (1) unit; that the existing unit measures 14'x 70'; that the proposed unit will measure 14'x 70'; that the units will be connected to create the look of a double-wide manufactured home; that the units will have skirting, siding, and new windows and doors; that there will be an a-roof over both units; that there will only be one kitchen; that there are manufactured homes in the area; that they have a letter of consent from the property owner; and that they submitted drawings.

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 special use exception be **granted with the stipulation that the units will have the a-roof, siding and skirting completed within six (6) months and since there will be no adverse effect to the neighborhood.** Vote carried 5 – 0.

Case No. 9013 – Bruce Puterbaugh – south of Route 24, Clematis Street, being Lot J-2 within Love Creek Mobile Home Park.

Minutes
April 4, 2005
Page 6

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

Ms. Hudson presented the case. Bruce Peterbaugh was sworn in and testified requesting a 6-foot variance from the required 10-foot side yard setback requirement and a 4-foot variance from the 20-foot separation requirement between units in a mobile home park; that the proposed addition will measure 10' x 24'; that the park is in support of the application; that the adjacent neighbor is in support of the application; that a large tree on the opposite side prevents the addition from being built on that side; that the size of the lot is unique; that the addition will not alter the character of the neighborhood; and that there are various additions throughout the park.

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

Case No. 9014 – Randall J. Lee and Home Improvements By Randy LLC – north of Road 578, 2,250 feet west of Road 34.

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

Ms. Hudson presented the case. Randall Lee was sworn in and testified requesting a 100-foot variance from the required 150-foot lot width requirement for a parcel; that he would like to create four (4) lots; that he wants to create a 50-foot road to gain access to the remaining acreage; that to create the fourth lot is the best use of the property; that the property has been approved for four septic systems; that he cannot apply for a major subdivision to create more than four lots due to the lack of septic system locations; that

there would be no hardship to the neighborhood; that it is the minimum variance to afford relief to create a fourth building lot; and that all existing improvements will be removed.

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 to take the case 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. Hudson, and carried unanimously that the variance be **denied since it does not meet the standards for granting a variance.**

Minutes

April 4, 2005

Page 7

Vote carried 5 – 0.

Case No. 9015 – Karl Richeson – south of Road 268, 1,550 feet east of Route One.

A variance from the side yard setback requirement.

Ms. Hudson presented the case. Karl Richeson was sworn in and testified requesting a 7.7-foot variance from the required 10-foot side yard setback requirement for a proposed sunroom; that the lot is long and narrow which makes it unique; that he plans to create more parking area behind the proposed addition; that it was not created by the Applicant; that the dwelling was built 2.6-foot from the property line; that it will not alter the character of the neighborhood; that it is the minimum variance to afford relief due to an existing outdoor basement entrance; and that he submitted pictures and 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. Mills, seconded by Mr. McCabe, and carried unanimously that the variance be **granted since it meets the standards for granting a variance.**
Vote carried 5 – 0.

Case No. 9016 – Jason Hill – south of Route One, 393 feet northeast of Road 272B (Old County Road).

A variance from the front yard setback requirement for a through lot and a variance from the side yard setback requirement.

Ms. Hudson presented the case. Jason Hill was sworn in and testified requesting a 32.1-foot variance from the required 40-foot front yard setback requirement and a 7.8-

foot variance from the required 10-foot side yard setback requirement for an existing garage; that the property is zoned C-1; that he plans to remodel the garage into an apartment; that the garage was built prior to zoning; and that it was not created by the Applicant.

The Board took a 10-minute recess to allow the staff to verify the garage is non-conforming.

The staff reported to the Board that the garage is non-conforming.

Minutes
April 4, 2005
Page 8

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variances be **denied as unnecessary and that the Applicant's fee should be refunded.** Vote carried 5 – 0.

Case No. 9017 – Michael Deckelman – north of Route 54, west of Canvasback Road, being Lot 42, Block D within Swann Keys development.

A variance from the side yard setback requirement.

Ms. Hudson presented the case. Michael Deckelman was sworn in and testified requesting an 8-foot variance from the required 10-foot side yard setback requirement on both sides for a proposed manufactured home; that the existing unit is a 1979 model; that the proposed unit will be 24-foot wide; that the existing unit is in poor shape; that they plan to make this their permanent residence; that the narrow lot makes it unique; that there is a height restriction in the development that prevents them from building up; that all the existing sheds will be removed; that the neighbor has the same size unit; that the Homeowner's Association is in support of the application; that the whole development is upgrading to larger units; that it will not alter the character of the neighborhood; that he will be creating more parking area in front of the proposed unit; and that it is the minimum variance to afford relief.

Ms. Hudson 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. Mills, and carried unanimously that the variance be **granted since it meets the standards for granting a variance and since there have been numerous variances granted in the development.** Vote carried 5 – 0.

Case No. 9018 – Larry and Kathleen Gibbs – west of Road 365, 1,907 feet north of Road 353.

A special use exception for determination of existence for two (2) manufactured homes on one (1) parcel.

Ms. Hudson presented the case. Aldon Hall was sworn in with Ken Foster, Attorney, on behalf of the application, and testified requesting a special use exception for a determination of existence for two (2) manufactured homes on one (1) parcel; that the property has been in the same family since 1965; that family members own the adjacent property; that a survey was done in November 2004 and that is when the 2 units on one parcel were discovered; that the Applicant has moved 2 shed into compliance; that the

Minutes

April 4, 2005

Page 9

family cannot afford to live somewhere else; that there have been two units on the property for over 36-years; and that the units have been replaced over the years and that there has not been over a two year lapse.

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 special use exception be **granted since it was determined that there has been 2 units on the property since 1969**. Vote carried 5 – 0.

Case No. 9019 – Gregory M. Stevens – southeast of Road 284, south of East Lane, being Lots 6, 7, 8 and 9 within Bay Shore Hills development.

A variance from the front yard setback requirement.

Ms. Hudson presented the case. Garth Jones and Gregory Stevens were sworn in and testified requesting a 10-foot variance from the required 30-foot front yard setback requirement; that they plan to renovate the existing dwelling; that they plan to make this their permanent residence; that the lot is unique due to the wetlands; that to keep from encroaching into the wetlands it creates a shallow building envelope; that they plan to install an elevator in the dwelling for their parents; that a new septic system will be installed on the property; that the Applicant's purchased the property one year ago; that they are combining the parcels to increase the size of the property; that the State of Delaware owns the adjacent property; that there are no neighbors affected by the proposed additions; that it is the minimum variance to afford relief; and that they submitted a letter addressing the standards for granting a variance.

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. Mills, seconded by Mr. McCabe, and carried unanimously that the variance be **granted since it meets all the standards for granting a variance**.
Vote carried 5 – 0.

Case No. 9020 – 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 maximum allowable lot coverage in a mobile home park.

Minutes
April 4, 2005
Page 10

Ms. Hudson presented the case. Kenneth Durgin was sworn in and testified requesting a 318-square-foot variance over the allowable 1,428-square-foot for 35% lot coverage in a mobile home park; that the lot is unique in size; that it was not created by the Applicant; that it is within the character of the neighborhood; and that it is the minimum variance to afford relief.

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. Hudson, seconded by Mr. Workman, and carried unanimously to incorporate Case No. 8941 which is under Old Business with the decision of Case No. 9020.

Motion by Mr. Hudson, seconded by Mr. Workman, and carried unanimously that the variances be **granted for Case No. 8941 and Case No. 9020 since they meet the standards for granting a variance**. Vote carried 5 – 0.

OLD BUSINESS

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 incorporated the decision with the public hearing for Case No. 9020.

See Case No. 9020 for details.

Case No. 8996 – James and Kathleen Cordner – south of Road 277, west of Holly Court, being Lot 5, Block J, Section 2 within Angola By The Bay development.

A variance from the rear yard setback requirement.

The Board discussed the case which has been tabled since March 21, 2005.

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.

Minutes
April 4, 2005
Page 11

Case No. 9000 – Key West Investments, LLC – south of Route One, 750 feet northwest of Road 88.

A special use exception to replace existing billboards, a variance from the maximum allowable square footage for a sign, and a variance from the side yard setback requirement.

The Board discussed the case which has been tabled since March 21, 2005.

Motion by Mr. McCabe, seconded by Mr. Hudson, and carried unanimously that the special use exception and variances be **granted since it will be an improvement to the neighborhood.** Vote carried 5 – 0.

Case No. 8908 – Can Bentley – east of Route One, east of West Isaacs Drive, being Lot 13 within Midway Park Development.

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

The Board discussed the case which has been tabled since January 3, 2005.

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 5 – 0.

Meeting Adjourned 9:55 p.m.