



Board of Adjustment

Agendas & Minutes

MINUTES OF MAY 3, 2004

The regular meeting of the Sussex County Board of Adjustment was held Monday evening May 3, 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, Mrs. Heffelfinger – Zoning Inspector II, Mr. Rickard – Secretary to the Board, and Mrs. Norwood – Recording Secretary.

Motion by Mr. Mills, seconded by Mr. Hudson, 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 April 26, 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. 8616 – Marshall and Jeannette Smith – north of Road 269, northeast of Quaker Road, being Lot 7 within Quaker Heights Development.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Marshall and Jeannette Smith and Tim Tenerovich were sworn in and testified requesting a 7.63-foot variance from the required 30-foot front yard setback requirement for a proposed addition; that the neighborhood is an older subdivision; that all of the surrounding lots are undersized; that there are numerous encroachments on surrounding properties; that the variance is in character with the neighborhood; and that the Applicant is now living at the residence full time.

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. 8617 – Keith and Roberta Purdy – south of Road 277, west of Elmwood Avenue East, being Lots 98 and 99, Section 1, Block A within Angola By The Bay Development.

A variance from the rear yard setback requirement.

Minutes
May 3, 2004
Page 2

Mr. Rickard presented the case. William Purdy was sworn in and testified requesting a 14.3-foot variance from the required 20-foot rear yard setback requirement for an addition; that the existing dwelling was built in 1972; that the required rear yard setback is 10-foot; that the proposed addition will not encroach further than the existing dwelling; that a previous rear yard variance was granted in 1985 for the existing deck; and that the lot is undersized.

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 alter the character of the neighborhood, since the property is adjacent to a common area, and since the improvements will not encroach into the setback anymore than the existing dwelling**. Vote carried 5 – 0.

Case No. 8618 – Dianna L. Shade – north of Route 54, west of Teal Drive, being Lot 5, Block C within Swann Keys Development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Dianna L. Shade was sworn in and testified requesting a 1.5-foot variance from the required 10-foot side yard setback requirement for a proposed screen porch; that the proposed screen porch will be built on an existing deck; and that the porch will measure 10' x 15'.

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. 8619 – Catherine Thistle – east of Road 38, 2,055 feet south of Road 386A.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Catherine Thistle was sworn in and testified requesting a 6.2-foot variance from the required 40-foot front yard setback requirement for an existing detached garage; that the detached garage measures 24' x 40'; that her builder measured from the edge of the road and not the property line; and that the existing dwelling was built in 1952.

Minutes
May 3, 2004
Page 3

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 due to the uniqueness of the lot and since it will not alter the character of the neighborhood**. Vote carried 5 – 0.

Case No. 8620 – Robert and Mary Kendall – north of Road 333, west of Pebble Drive, being Lot 10, Block C within Sandy Beach Development.

A variance from the rear yard setback requirement.

Mr. Rickard presented the case. Robert Kendall was sworn in and testified requesting a 2-foot variance from the required 20-foot rear yard setback requirement for an existing dwelling; that he was the general contractor for the construction of his dwelling; that the development has a setback requirement of 15-foot; that the County has a setback requirement of 20-foot; that the Homeowner's Association did not make him aware that he would have to meet the County's setback requirements; and that he submitted 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**. Vote carried 5 – 0.

Case No. 8621 – Stephen J. Cropper – east of U.S. Route 113, 1,568 feet north of Road 400.

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

Mr. Rickard presented the case. Stephen J. Cropper was sworn in and testified requesting a special use exception to place a manufactured home type structure as a sales office; that he is replacing an existing unit; that the proposed unit will measure 12' x 52';

that he has owned and operated the business for 15-years; that he does not plan to build a permanent structure; and that the use is needed for at least five (5) years.

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

Minutes
May 3, 2004
Page 4

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 special use exception be **granted for a period of three (3) years and with the stipulation that they must build a permanent structure**. Vote carried 5 – 0.

Case No. 8622 – Ann W. Curtis – north of U.S. Route 113, north of Washington Avenue, being Lot 4 within Seaford Acres Development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. John Tarburton, Attorney, on behalf of the application testified requesting a 3-foot variance from the required 5-foot side yard setback requirement; that a survey done for settlement, showed the encroachment; that neither the seller or buyer of the property created the encroachment; that the shed has been on the lot for many years; 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 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. 8623 – Alisa Johnson – south of Road 400, 1,247 feet west of U.S. Route 113.

A special use exception to operate a day care facility.

Mr. Rickard presented the case. Alisa Johnson was sworn in and testified requesting a special use exception to operate a day care facility; that her hours of operation will be Monday – Friday, 6:30 a.m to 6:00 p.m.; that she will care for 32-children from ages 6-weeks old to 14-years old; and that there is 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. Mills, and carried unanimously that the special use exception be **granted for 32 children and that the hours of operation be Monday – Friday from 6:30 a.m. to 6:00 p.m.** Vote carried 5 – 0.

Minutes
May 3, 2004
Page 5

Case No. 8624 – Karen J. Brown – west of Road 288, north of Hazzard Drive, being Lots 40 and 41 within Conley Chapel Village Development.

A variance from the rear yard setback requirement.

Mr. Rickard presented the case. Karen Brown and Charlie Clendaniel were sworn in and testified requesting a 3.9-foot variance from the required 20-foot rear yard setback requirement for a detached garage; that the measurements were taken from the neighbors fence line; that the neighbor is in support of the application; that he feels the building is not out of character with the neighborhood; and that he submitted pictures.

David Greenhall was sworn in and testified in support of the application and stated that he has no objection to the application; and that he would give the Applicant 4-foot of his property if need be to comply.

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. 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. 8625 – Rex Barrett – west of Road 318, north of Road 48, being Lot 10 within Davidson-Moore Development.

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

Mr. Rickard presented the case. Rex Barrett was sworn in and testified requesting a 17-foot variance from the required 40-foot front yard setback requirement for a through lot for a proposed dwelling; that the lot is an odd shape; and that he submitted a survey.

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

Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously that the variance be **granted due the uniqueness of the lot**. Vote carried 5 – 0.

Case No. 8626 – Roy J. Evans & Co., Inc. – south of Route 54, north of Breakwater Run, being lot 159 within Keenwick Sound Phase II.

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

Minutes
May 3, 2004
Page 6

Mr. Rickard presented the case. Roy J. Evans was sworn in and testified requesting a 9-foot variance from the required 40-foot front yard setback requirement for an existing dwelling; that he was aware of the required setback; that a fellow builder had him believe that the required setback had been revised; and that he did not check with the County.

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 other variances have been granted in the area**. Vote carried 5 – 0.

Case No. 8627 – David A. Schaaf – south of Route 54, east of Breakwater Run, being Lot 143 within Keenwick Sound Phase II.

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

Mr. Rickard presented the case. David Schaaf was sworn in and testified requesting a 12-foot variance from the required 40-foot front yard setback requirement for an addition, a 1-foot variance from the required 10-foot side yard setback requirement for an outside shower, and a 33-foot variance from the required 40-foot front yard setback requirement for a shed; that the proposed addition will not extend any further than the neighboring dwellings; that the shed has been on the lot for 9-years; and that the through lot creates a hardship.

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. 8628 – Timothy Miller – north of Road 524, 3,350 feet east of Road 516.

A variance from the minimum lot width requirement for a parcel, a variance from the side yard setback requirement and a special use exception to retain a manufactured home on a parcel.

Mr. Rickard presented the case. Timothy Miller was sworn in with David Rutt, Attorney, and testified requesting a 29.1-foot variance from the 150-foot lot width

Minutes

May 3, 2004

Page 7

requirement, a special use exception to retain a manufactured home on less than 5-acres and a 3-foot variance from the required 15-foot side yard setback requirement; that he submitted a survey that shows the side yard variance request is not needed; that the proposed lots meet the $\frac{3}{4}$ -acre requirement; that the manufactured home has a 2002 septic system; that there are other manufactured homes in the area; and that he submitted letters and pictures.

Evelyn Maddox was sworn in and testified in opposition to the application and stated that she does not want any more manufactured homes in the area; that the existing units are all run down; and that she is concerned for her property value.

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

Motion by Mr. Hudson, seconded by Mr. Mills, 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. Hudson, seconded by Mr. Mills, and carried unanimously that the case be **tabled until May 17, 2004**. Vote carried 5 – 0.

Case No. 8629 – Richard and Gerldine Jansen – south of Route 54, east of Breakwater Run, being Lot 144 within Keenwick Sound Phase II.

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

Mr. Rickard presented the case. Richard Jansen was sworn in and testified requesting a 33-foot variance from the required 40-foot front yard setback requirement for a shed; that the shed measures 10' x 10'; that he built the shed; that he did not realize he needed a building permit for this size shed; and that the shed is in the best location on the lot.

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. 8630 – Jim Lee, Inc. – west of Road 601, 0.72 mile south of Road 16 being Lot 3.

Minutes
May 3, 2004
Page 8

A special use exception to retain a manufactured home on a parcel and a variance from the front yard setback requirement.

No one appeared on behalf of the application.

By a show of hands 1 party appeared in opposition to the application.

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

OLD BUSINESS

Case No. 8604 – John and Patsy Wary – north of Route 54, east of Laws Point Road, being Lot 26, Block E within Swann Keys Development.

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

The Board discussed the case which has been tabled since April 26, 2004.

Motion by Mr. McCabe, seconded by Mr. Workman, and carried unanimously that the case be **tabled until May 17, 2004**. Vote carried 5 – 0.

Case No. 8606 – Southern Delaware Surgery Center – southeast of Route 24, 711 feet northeast of Road 275.

A special use exception for a second ground sign.

The Board discussed the case which has been tabled since April 26, 2004.

Motion by Mr. Mills, seconded by Mr. McCabe, 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. 8615 – Phil H. and Olga P. Fitch – north of Route 22, 645 feet east of Road 298.

A special use exception to place a billboard.

The Board discussed the case which has been tabled since April 26, 2004.

Minutes
May 3, 2004
Page 9

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the special use exception be **granted since it meets all the standards for granting a variance and since it will have no adverse effect to the neighborhood.**

Vote carried 5 – 0.

Meeting Adjourned 8:55 p.m.