



Board of Adjustment

Agendas & Minutes

MINUTES OF MAY 24, 2004

The regular meeting of the Sussex County Board of Adjustment was held Monday evening May 24, 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. Mills, seconded by Mr. McCabe, and carried unanimously to approve the Agenda as circulated. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of May 17, 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. 8646 – Robino-Sea Chase LLC – west of Road 274, south of Mediterranean Drive, being Unit 13 within The Estates of Sea Chase.

A variance from the separation requirement between units.

Mr. Rickard presented the case. Dorothy Novak was sworn in and testified requesting a 4.5-foot variance from the required 20-foot separation requirement between units 12 and 13 and a 4.5-foot variance from the required 20-foot separation between units 13 and 14; that the customer chose a 2-story dwelling for the lot; that the approved site plan did not reference the 20-foot separation requirement; that adjustments have been made to prevent further variances; and that the local fire company has 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. Workman, and carried unanimously that the variance be **granted with the stipulation that the Applicant submit an approval letter from the local fire company**. Vote carried 5 – 0.

Case No. 8647 – Matthew A. and Katherine N. Morse – south of Road 277, northwest of Marina Drive East, being Lot 15 and part of Lot 14 within Angola By The Bay Development.

A variance from the side yard setback requirement.

Minutes
May 24, 2004
Page 2

Mr. Rickard presented the case. Michael Davis, Attorney, present on behalf of the application testified requesting a 3.8-foot variance from the required 10-foot side yard setback requirement for an existing dwelling; that the Applicant purchased the property in March 2003; that the encroachment was not created by the Applicant; and that the lot is unique is shape.

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

Motion by Mr. Mills, seconded by Mr. 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**. Vote carried 5 – 0.

Case No. 8648 – Charles and Phyllis Hayes – south of Route 54, south of Cleveland Avenue, being Lot 22, Block 4 within Cape Windsor Development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Charles Hayes was sworn in and testified requesting a 5-foot variance from the required 10-foot side yard setback requirement for a proposed manufactured home; that he submitted a letter of approval from the Homeowner's Association; that the Association opposed a proposed plan for a manufactured home with a portico on May 3, 2004; and that the Association approved a proposed plan for a manufactured home without the portico on May 23, 2004.

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 is a minimum variance request**. Vote carried 5 – 0.

Case No. 8649 – Sandra B. Pace and Barbara C. Passikoff – southwest of Route One, southwest of Gainsborough Drive, being Lot 29 within Rolling Meadows Development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Sandra Pace and Barbara Passikoff were sworn in and testified requesting a 2.4-foot variance from the required 15-foot side yard setback requirement for an attached shed; that the builder obtained the building permit in March 2003; that a survey done for settlement showed the violation; and that they could provide an address for the builder.

Minutes
May 24, 2004
Page 3

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 with a letter sent to the builder**. Vote carried 5 – 0.

Case No. 8650 – Edwin D. and Anna M. Broyles – north of Route 54, west of Mallard Drive, being Lot 74, Block H within Swann Keys Development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. John Sauter was sworn in and testified requesting a 5-foot variance from the required 10-foot side yard setback requirement for a proposed screen porch; that he is the builder; that he built the existing deck; that they want to enclose the deck with screen for protection from insects; and that he submitted pictures.

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. 8651 – Holland Fisher – west of Road 621, 800 feet south of Route 36.

A special use exception for determination of existence of manufactured home.

Mr. Rickard presented the case. Holland Fisher and Holland Fisher, Jr. were sworn in and testified requesting a special use exception for a determination of existence of a manufactured home; that he inherited the property from his stepfather; that he needed insurance on the units; that he cannot locate a serial number for the unit; that the Department of Motor Vehicle has an investigator researching the unit for a serial number; that numerous additions have been built on the unit; that he placed a unit on the property in 1967; that the unit was removed in the 1970's when he moved out of the area; that

there have been 2 units on the property for as long as anyone can remember; that his stepfather rented the 2 units; that his son lived in the unit in question prior to his stepfathers death; and that the son now lives in the existing dwelling.

Allen Webb, Jr. was sworn in and testified in opposition to the application and stated that he was a close friend the Applicant's stepfather; that the stepfather did everything without the proper permits; that he remembers the unit being placed on the

Minutes

May 24, 2004

Page 4

property in 1972; that he believe the first unit was placed in 1970; that he has lived on the property since 1970; that there were no units on the property when he moved there; that throughout the years the units have been rented to close friends and family; and that he submitted pictures.

Marlene Castalo was sworn in and testified in opposition to the application and stated that her father owns the adjacent property; that she remembers units always being on the property; and that her sister lived in one unit in 1973.

In rebuttal, Holland Fisher, stated that he did not have a survey showing all the improvements; and that they believed they have four or five accessory structures.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the case be **left open until the Applicant can submit a survey**. Vote carried 5 – 0.

Case No. 8652 – Harvey G. Black – northeast of Road 385, 900 feet northwest of Route 17.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Harvey Black was sworn in with Dean Campbell, Attorney, present on behalf of the application, and testified requesting a 2-foot variance from the required 15-foot side yard setback requirement for an existing detached garage; that the garage measures 24' x 40'; that his builder obtained the building permit; that there was some confusion about the location of the property line; that an existing gravel road was believed to be the property line; that a survey showed the encroachment; that the building is over 200-foot from his neighbors dwelling; and that there are pine trees along the property line.

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 will not alter the character of the neighborhood and with a letter sent to the builder**. Vote carried 5 – 0.

Case No. 8653 – Robert N. Willoughby, Jr. – north of Road 465, west of Cypress Lane, being Lot 24, within Old Church Landing Development.

A variance from the side yard setback requirement.

Minutes
May 24, 2004
Page 5

Mr. Rickard presented the case. Robert Willoughby, Jr. was sworn in and testified requesting a 9-foot variance from the required 15-foot side yard setback requirement for a proposed detached garage; that the proposed detached garage will measure 28' x 28'; that the lot is narrow and slopes down in the rear yard to the water; that an existing swimming pool prevents the garage from being built closer to the dwelling; and that the proposed garage will be built on an existing parking pad.

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

Motion by Mr. Workman, 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. 8654 – Michelle and George England, III – north of Road 270, 850 feet north of Road 270-A.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Michelle and George England, III were sworn in and testified requesting a 4-foot variance from the required 10-foot side yard setback requirement for a proposed addition; that the addition is needed to create more living space; that the existing dwelling is very small; and that you have to go outside to enter the basement to do laundry.

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. 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. 8655 – Ralph E. and Louise Schuler – southeast of Road 298, west of Ritter Drive, being Lot 17 within William Ritter Manor Development.

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

Mr. Rickard presented the case. Ralph Schuler was sworn in and testified requesting a 19-foot variance from the required 30-foot front yard setback requirement for existing sheds; that he purchased the property in January 2004; that a survey done for

Minutes
May 24, 2004
Page 6

settlement showed the encroachment; that the sheds were in place at the time of purchase; and that his closest neighbor is in support of the application.

Bruce Rogers, Attorney, present on behalf of the opposition, testified that the Homeowner's Association follows the County's ordinance; that no building permits were obtained for the shed; and that the Association wishes to impose uniformity within the development.

In rebuttal, Ralph Schuler, stated that at settlement it was mentioned that the sheds were in violation; that the sheds are in line with an existing driveway; and that he submitted pictures that show the neighbors sheds are possibly encroaching as well.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be **tabled until June 7, 2004**. Vote carried 5 – 0.

Case No. 8656 – Ronald V. and Marsha S. G. Goodwin – northeast of Road 39B, southeast of Ash Street, being Lot 67 within Joseph D. Short 3rd Addition Development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Ronald Goodwin was sworn in and testified requesting a 6.4-foot variance from the required 10-foot side yard setback requirement for a proposed dwelling; that he plans to use the existing dwellings footprint; that all the lots in the development are undersized; that there are numerous encroachments in the development; and that the proposed dwelling is in character with the neighborhood.

Mr. Rickard stated that the office received 1 letter in support of 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. 8657 – Mitchell and Samie Dozor – east of Road 279, south of South Drive, being Lot D-49 within West Bay Mobile Home Park.

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

Mr. Rickard presented the case. Mitchell Dozor was sworn in and testified requesting a 5-foot variance from the required 20-foot separation requirement between units in a mobile home park and a 3-foot variance from the required 5-foot side yard

Minutes
May 24, 2004
Page 7

setback requirement for a shed; that he replaced an existing shed; that the new shed is in the exact location as the existing shed; and that he obtained a building permit.

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

Case No. 8658 – Anna and Richard Gallitelli, Sr. – south of Route 88, southeast of Orchards Way, being Lot 62, Section C within Overbrook Shores Development.

A variance from the rear yard setback requirement.

Mr. Rickard presented the case. Richard Gallitelli, Sr. was sworn in and testified requesting a 10.8-foot variance from the required 20-foot rear yard setback requirement for a sunroom; that the proposed sunroom will measure 12' x 16'; that he purchased the property in August; and that the Homeowner's Association is in support of the application.

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

Mr. Rickard stated that the office received 1 letter 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.**
Vote carried 5 – 0.

Case No. 8659 – Fermin Matos – south of Road 20, east of Dogwood Drive, being Lot 1 within Nanticoke Acres Development.

A variance from the rear yard setback requirement.

Mr. Rickard presented the case. Fermin Matos and Israel Figueroa were sworn in and testified requesting a 14.2-foot variance from the required 20-foot rear yard setback requirement for an attached garage; that the garage measures 24' x 33'; that he received a letter of violation from the Planning and Zoning Department; that he built the garage and obtained the building permit; that the garage will be used for storage and cars only; and that they submitted pictures.

By a show of hands, 21 parties appeared in support of the application.

Minutes
May 24, 2004
Page 8

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

Case No. 8660 – Jed D. and Claudia R. Todd – south of Road 277, west of Bridgeway Drive, being Lot 36, Block W, Section 5 within Angola By The Bay Development.

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

Mr. Rickard presented the case. Claudia Todd 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 20-foot rear yard setback requirement; that she purchased the property at a sheriff sale; that she is still completing the construction of the dwelling which is why there has not been a Certificate of Compliance issued; that the proposed roof is over an existing deck; that the roof will provide shelter for the side entrance; that the proposed deck and screen porch is adjacent to a common area; and that she feels the improvements will increase property value to the neighborhood.

Mr. Rickard stated that the office received 1 letter 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.

Meeting Adjourned 9:07 p.m.

