



Board of Adjustment

Agendas & Minutes

MINUTES OF JUNE 21, 2004

The regular meeting of the Sussex County Board of Adjustment was held Monday evening June 21, 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. Mills, Mr. Workman and Mr. Hudson, with Mr. Berl – Assistant County Attorney, Mrs. Heffelfinger – Zoning Inspector II, 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 4 – 0.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously to approve the Minutes of June 7, 2004 as circulated. Vote carried 4 – 0.

Mr. Berl read a statement explaining how the Board of Adjustment meeting is conducted and the procedures for hearing the cases.

Case No. 8676 – David R. Briggs – south of Road 310A, 100 feet west of Road 313A.

A variance from the minimum lot width requirement and a variance from the rear yard setback requirement.

Mrs. Heffelfinger presented the case. David Briggs and Don Miller were sworn in and testified requesting a 110-foot variance from the required 150-foot lot width requirement for a parcel, a 15.8-foot variance from the required 20-foot rear yard setback requirement for a storage building, and a 1.8-foot variance from the required 5-foot rear yard setback requirement for a shed; that the Applicant has owned the property for 30-years; that the Applicant wants to subdivide the parcel for his family; that the proposed property line has to be located close to the sheds due to wetlands; and that the existing 40-foot right of way will remain.

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 4 – 0.

Case No. 8677 – Debra Hart – north of Route 18, 625 feet west of Road 546.

A special use exception to place a manufactured home on a medical hardship basis.

Mrs. Heffelfinger presented the case. Ronald and Debra Hart were sworn in and testified requesting a special use exception to place a manufactured home on a medical hardship basis; that her mother will live in the proposed unit; that they are going to build a new dwelling on the property; that her mother needs care but needs her own place to live; and that the neighbor 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. Hudson, and carried unanimously that the special use exception be **granted for a period of two (2) years since it will not have any adverse affect to the neighborhood**. Vote carried 4 – 0.

Case No. 8678 – J. Franklin and Joan B. Richardson – east of Road 273A, north of Basin Street, being Units 115 and 116 within Bay Vista Development.

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

Mrs. Heffelfinger presented the case. J. Franklin and Joan B. Richardson were sworn in and testified requesting a 4-foot variance from the required 5-foot rear yard setback requirement and a 4-foot variance from the required 5-foot side yard setback requirement for a shed; that they did not obtain a building permit; that they purchased the shed from a company in Maryland; that the shed was placed closer to the property line than planned; and that they submitted pictures and letters of support to the application.

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

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the variances be **granted with the stipulation that the Applicant obtain a building permit and a letter will be sent to the shed company and since it will not alter the character of the neighborhood**. Vote carried 4 – 0.

Case No. 8679 – Kathleen T. Schnakenberg – north of Route 54, west of Blue Bill Road, being Lot 72, Block G, Section B within Swann Keys Development.

A variance from the side yard setback requirement.

No one appeared on behalf of the appliction.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the case be **denied due to lack of record of support**. Vote carried 4 – 0.

Case No. 8680 – Robert Jackson – northeast of Route One, southeast of Lantern Lane, being Lot 30 within Colonial East Mobile Home Park.

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

No one appeared on behalf of the application.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be **denied due to lack of record of support**. Vote carried 4 – 0.

Case No. 8681 – William M. Collins, Jr. – north of Route 54, east of Laws Point Road, being Lot 22, Block E within Swann Keys Development.

A variance from the side yard setback requirement.

No one appeared on behalf of the application.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be **denied due to lack of record of support**. Vote carried 4 – 0.

Case No. 8682 – Tracie and Talbert Roberts, III – east of Road 288A, east of Holly Oak Lane, being Lot 61 within Holly Oak Development.

A variance from the front yard setback requirement.

Mrs. Heffelfinger presented the case. Talbert Roberts, III was sworn in and testified requesting a 0.8-foot variance from the required 30-foot front yard setback requirement and a 5.1-foot variance from the required 30-foot front yard setback requirement for a deck and a 4.8-foot variance from the required 30-foot front yard setback requirement for a detached garage; that he built the garage 4-year ago; that he understood the setback requirement to be 20-foot when he obtained the building permit; that he had a survey done and discovered the violation; that he built the deck 3-years ago; and that he will move the shed in compliance.

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 and due to the unique shape of the lot**. Vote carried 4 – 0.

Case No. 8683 – Inga Sehlstedt – east of Route One, north of Robinson Drive, being Lot 36 within Silver Lake Manor Development.

A variance from the side yard setback requirement.

Mrs. Heffelfinger presented the case. Nathan Allen Jarmon was sworn in and testified requesting a 6.5-foot variance from the required 10-foot side yard setback requirement for an addition; that the addition was built in 1972; that the dwelling is non-conforming; that family owns the adjacent property; and that he submitted a survey.

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. Hudson, seconded by Mr. Mills, and carried unanimously that the variance be **granted since it will not alter the character of the neighborhood**.
Vote carried 4 – 0.

Case No. 8684 – Olde Towne Pointe LLC – east of Road 269A, southeast of West Hunters Run, being Lot 1 within The Village of Five Point Development.

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

Mrs. Heffelfinger presented the case. Craig Hudson was sworn in and testified requesting a special use exception to place a manufactured home type structure as a sales office; that the unit will measure 12' x 40'; that adequate parking will be provided; that the lot will be landscaped; and that the use is needed for approximately two (2) years.

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. Workman, and carried unanimously that the special use exception be **granted for a period of two (2) years since it will not alter the character of the neighborhood**. Vote carried 4 – 0.

Case No. 8685 – James and Constance Nickerson – northeast of Road 298, northwest of Shady Lane, being Lot 13 within Shady Lane Development.

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

Mrs Heffelfinger presented the case. James and Constance Nickerson were sworn in and testified requesting a 6-foot variance from the required 20-foot rear yard setback requirement and a 6-foot variance from the required 15-foot side yard setback requirement for a proposed detached garage; that the proposed detached garage will measure 24' x 26'; that due to the existing septic system and driveway this will be the best location for the building; and that the location is in keeping with the character of the neighborhood.

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

Motion by Mr. Workman, seconded by Mr. Hudson, and carried unanimously that the variances be **granted since it will not alter the character of the neighborhood**.
Vote carried 4 – 0.

Case No. 8686 – William and Carla Layton – northeast of Road 477, 3,556 feet east of Road 446.

A variance from the side yard setback requirement.

Mrs. Heffelfinger presented the case. William and Carla Layton were sworn in and testified requesting a 12-foot variance from the required 15-foot side yard setback requirement for a deck; that the deck will be around an above ground pool; that his father owns the adjacent property; and that they submitted a drawing.

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 for a 12-foot variance since it will not alter the character of the neighborhood**. Vote carried 4 – 0.

Case No. 8687 – Steve Murphy – intersection of U.S. Route 113 and Route 54A.

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

Mrs. Heffelfinger presented the case. Steve Murphy was sworn in and testified requesting a 30-foot variance from the required 60-foot front yard setback requirement for a through lot; that the lot is an odd shape; that the setback requirement has been changed from a 40-foot requirement to a 60-foot requirement; that the proposed building will measure 28' x 48'; that the proposed building will be used for an office and storage; and that he will meet the 60-foot setback requirement from Route 113.

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 4 – 0.

Case No. 8688 – Kyung Cho-Miller – east of Route One, south of Admiral Road, being Lot 5 within Tower Shores Development.

A variance from the minimum square footage requirement for multi-family structures.

Mrs. Heffelfinger presented the case. James Gellenaro was sworn in and testified requesting a 630-square-foot variance from the required 3,360-square-foot requirement for a unit; that the Applicant wants to demolish the existing dwelling; that the proposed duplex is in keeping with the character of the neighborhood; that the Planning and Zoning Commission recommended that the Applicant seek a variance with the Board; and that the Applicant has consent from the Homeowner's Association.

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**. Vote carried 4 – 0.

Case No. 8689 – Ernest J. Ricketts – south of Route 31, north of Road 276.

A special use exception to place a manufactured home on a medical hardship basis.

Mrs. Heffelfinger presented the case. Ernest Ricketts was sworn in and testified requesting a special use exception to place a manufactured home on a medical hardship basis; that the proposed unit will measure 27' x 48'; that he is going to care for his aunt that lives in the dwelling; that he owns an adjacent property; that there is a manufactured home currently on his property; that the property is overgrown and access to the property is difficult; and that he plans to have that unit removed.

Mr. Workman asked the Applicant about a second dwelling and a travel trailer on the property that appear to be occupied.

In rebuttal, Mr. Ricketts, stated that he believes that the dwelling and travel trailer are occupied.

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. Workman, seconded by Mr. Mills, and carried unanimously that the special use exception be **granted for a period of two (2) years with the stipulation that no one lives in the travel trailer or the second dwelling**. Vote carried 4 – 0.

Case No. 8690 – Delaware Department of Transportation – east of Road 850 Inlet, north of Indian River Inlet.

A special use exception to operate a concrete batching plant.

Mrs. Heffelfinger presented the case. Joseph Rauseo was sworn in and testified requesting a special use exception to operate a concrete batching plant; that the plant will be used to support the construction of the proposed Indian River bridge; that the proposed plant will only serve the bridge construction; that the plant will be removed once the bridge is complete; that DNREC controls the dust and run off created by the plant; that the plant will run six days a week; and that they plan to start construction on the bridge March 2005.

By a show of hands, 4 parties appeared in support of or in opposition to 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 special use exception be **granted since it will have no adverse effect to the neighborhood and will be a temporary use**. Vote carried 4 – 0.

OLD BUSINESS

Case No. 8668 – Patricia T. and Robert L. Bailey, Sr. – east of Road 405, 791 feet north of Road 406.

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

The Board discussed the case.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the special use exception be **granted for a period of three (3) years**. Vote carried 4 – 0.

Case No. 8672 – Lowe’s Home Centers, Inc. – intersection of Road 275 and Road 276.

A variance from the minimum parking space requirement.

The Board discussed the case which has been tabled since June 7, 2004.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the variance for the expansion of the garden center be **granted and the variance in parking space width be denied**. Vote carried 4 – 0.

Meeting Adjourned 8:30 p.m.