



Board of Adjustment

Agendas & Minutes

MINUTES OF JULY 19, 2004

The regular meeting of the Sussex County Board of Adjustment was held Monday evening July 19, 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. 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 July 12, 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. 8706 – Sharyn Luzier and Duane Palmateer, Jr. – north of Road 279A, east of Basin Road Drive, being Lot 59 within Delaware Oyster Farm Development.

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

Mrs. Heffelfinger presented the case. Sharyn Luzier was sworn in and testified requesting a 6.5-foot variance from the required 15-foot corner side yard setback requirement for a deck and a 0.9-foot variance from the required 10-foot rear yard setback requirement for a manufactured home; that she inherited the property; that the manufactured home was placed in 1995; that the encroachments were discovered when a survey was done for settlement; that the portion of the shed that encroached has been removed; that she obtained building permits for the existing decks; that she owns the adjacent property; that Orchard Drive is a recorded road; 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. 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. Mills, seconded by Mr. Hudson, and carried unanimously that the variances be **granted for a 6.5-foot variance and a 0.9-foot variance**.
Vote carried 5 – 0.

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Case No. 8707 – Fred Tana/A to Z Bld. Cont. – south of Road 277, west of Poplar Drive, being Lot 48, Block U, Section 5 within Angola By the Bay Development.

A variance from the front yard setback requirement.

Mrs. Heffelfinger presented the case. Fred Tana was sworn in and testified requesting a 8.6-foot variance from the required 30-foot front yard setback requirement for a front porch; that the existing dwelling was built in the 1960's; that he made repairs to the dwelling; that a roof was built over an existing concrete patio; that he did not obtain a building permit for the roof; and that he submitted pictures.

Mrs. Heffelfinger stated that the office received 3 letters 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 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. McCabe, and carried unanimously that the variance be **granted since it will not alter the character of the neighborhood**.
Vote carried 4 – 1.

Case No. 8708 – Florence McKenna – north of Route 54, east of Laws Point, being Lot 42, Block E within Swann Keys Development.

A variance from the side yard setback requirement.

Mrs. Heffelfinger presented the case. Kimberly McKenna was sworn in and testified requesting a 2.1-foot variance from the required 10-foot side yard setback requirement and a 2.1 foot variance from the required 10-foot side yard setback requirement for a proposed manufactured home; that she plans to replace the manufactured home; that the proposed unit is 24-foot wide; that the existing unit is 14-foot wide; that she plans to make this her permanent residence; and that the shed will be removed.

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

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

Case No. 8709 – James and Elizabeth Richardson – east of Route One, west of private road, being Lot T-5 within Ocean Village Development.

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

Mrs. Heffelfinger presented the case. James and Elizabeth Richardson were sworn in and testified requesting a 22.4-foot variance from the required 40-foot front yard setback requirement; that the existing dwelling was built in 1979; that the existing dwelling does not meet the required setback requirements; that the proposed addition does not encroach as much as the existing dwelling; that the Architecture Committee is in support of the application; and that they submitted letters of support to 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 will not alter the character of the neighborhood and due to the unique shape of the lot**. Vote carried 5 – 0.

Case No. 8710 – David W. Fishell – southeast intersection of Route 54 and Road 389.

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

Mrs. Heffelfinger presented the case. David Fishell was sworn in and testified requesting a 32-foot variance from the required 40-foot front yard setback requirement for a shed and a 28-foot variance from the required 40-foot front yard setback requirement for an addition to a barn; that his lot is irregular shaped; that the setback requirements for the through lot take up 70% of his lot; that he considers Route 54 to be his front yard; that Road 389 is considered the rear yard throughout the neighborhood; that the proposed addition and the proposed location of the shed are within character of the neighborhood; and that the property is elevated and has a hedgerow along the property line on Road 389.

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

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Motion by Mr. Hudson, seconded by Mr. Mills, and carried unanimously that that variances be **granted since it will not alter the character of the neighborhood and due to the unique shape of the lot.** Vote carried 5 – 0.

Case No. 8711 – R. Scott and Joni Knoll – southeast of Route 23, north of River Road, being Lot 10 within Pot Nets Bayside Mobile Home Park.

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

Mrs. Heffelfinger presented the case. Ray Wolmenek was sworn in and testified requesting a 2.7-foot variance from the 20-foot separation requirement between units in a mobile home park and a 7-foot variance from the required 20-foot separation requirement between units in a mobile home park; that they replaced the existing single-wide unit with a double-wide; that they purchased the unit from New Dimension Homes; and that there are numerous variances in the community.

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. 8712 – James T. Bifferato – east of Route 22, east of Harbor road, being Lot 2 within Malone's Bayside Mobile Home Park.

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

Mrs. Heffelfinger presented the case. James Bifferato was sworn in and testified requesting a 4-foot variance from the required 20-foot separation requirement between units in a mobile home park; that the shed measures 6' x 10'; that the shed is used for storage only; that he placed the shed 11-foot from the lot line; and that the owner of the park misled him to believe that there was a 10-foot separation requirement between units.

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**.
Vote carried 5 – 0.

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Case No. 8713 – Charles S. Bunting – northeast of Road 48, 422 feet north of Road 321.

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

Mrs. Heffelfinger presented the case. Charles S. Bunting was sworn in and testified requesting a special use exception to place a manufactured home on a medical hardship basis; that the new unit will measure 14' x 56'; and that he needs to live near his brother due to his medical condition.

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 have no adverse effect to the neighborhood**. Vote carried 5 – 0.

Case No. 8714 – Donald G. D'Aquila – intersection of Route 16 and Road 213.

A special use exception for expansion of a non-conforming use.

Mrs. Heffelfinger presented the case. Donald G. D'Aquila and Willard Stacey were sworn in and testified requesting a special use exception for expansion of a non-conforming use; that he plans to remove the canopy and existing store front; that the masonry building will remain; that he plans to do repairs and remodeling to the existing masonry building; that he plans to build an addition to the rear of the masonry building; that the property has been poorly kept for a number of years; that he has already conducted a massive clean up to the property; that he plans to operate a auto sales and repair shop on the site; that the existing garage doors on the masonry building will be moved to the rear of the building; that the front of the existing building will have an office/store type front entrance; that he is working on a long term plan for the parcel; that once the sewer becomes available he hopes to develop a strip of stores; that Mt. Zion AME Church is in support of the application; and that he submitted pictures and a proposed plan of the building.

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.

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Motion by Mr. McCabe, seconded by Mr. Hudson, and carried unanimously that the special use exception be **granted since it will be a substantial improvement to the Town of Ellendale**. Vote carried 5 – 0.

Case No. 8715 – Paul and Gladys King – south of Route 54, east of Taft Avenue, being Lot 2 within Cape Windsor Development.

A variance from the side yard setback requirement.

Mrs. Heffelfinger presented the case. Paul Allen King was sworn in and testified requesting a 4-foot variance from the required 10-foot side yard setback requirement for a manufactured home; that the unit has been on the lot since the 1970's; that the unit was on the property when he purchased the property; and that he owns Lots 1 and 2.

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

Case No. 8716 – David and Ann Bristow – east of Road 638, 1,233.82 feet south of Road 40, being Lot 17.

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

Mrs. Heffelfinger presented the case. David Bristow was sworn in and testified requesting a special use exception for a manufactured home on a medical hardship basis; that the proposed unit will measure 14' x 60'; that the unit will be a new model; that his mother will reside in the unit; that the location of the unit depends on the location of the septic system; and that the unit will meet all required setbacks.

By a show of hands, 30 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 special use exception be **granted for a period of two (2) years**. Vote carried 5 – 0.

Case No. 8717 – Richard and Priscilla Green – north of Road 224, 1,300 feet west of Road 624.

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A variance from the side yard setback requirement.

Mrs. Heffelfinger presented the case. Harold Truxon was sworn in and testified requesting a 10.5-foot variance from the required 15-foot side yard setback requirement for an existing dwelling; that he represents Delmar Homes; that the dwelling is over 25-years old; that the property has been subdivided which created the encroachment; that they have an entrance approval from the DelDOT; and that they plan to subdivide the seven (7) acres.

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 since it was not created by the Applicant**. Vote carried 5 – 0.

Case No. 8718 – Anthony Hollerback – east of Route 24, southeast of White Pine Drive, being Lot 8 within Pines At Long Neck Development.

A variance from the side yard setback requirement.

Mrs. Heffelfinger presented the case. Anthony Hollerback was sworn in with James Becker, Attorney, and testified requesting a 5-foot variance from the required 10-foot side yard setback requirement and a 0.2-foot variance from the required 10-foot side yard setback requirement for an existing manufactured home; that he purchased the property in March 2004; that the encroachments were discovered at settlement; that the unit was placed in 1997; that there have been other variances granted in the community; that it would create a financial hardship to the Applicant to move the unit; that the unit is not out of character with the neighborhood; and that it is a minimum variance request.

By a show of hands, 1 party appeared in support of 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 is a minimum variance request**. Vote carried 5 – 0.

Case No. 8719 – David and Carla Brown – north of Route 36, 1,600 feet southwest of Road 628.

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

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Mrs. Heffelfinger presented the case. David Brown was sworn in and testified requesting a 15-foot variance from the required 40-foot front yard setback requirement and a 10-foot variance from the required 15-foot side yard setback requirement for a proposed manufactured home; that the existing unit measures 24' x 56'; that the proposed unit will measure 28' x 72'; and that the proposed unit will be placed closer to the right of way.

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. Mills, seconded by Mr. Workman, and carried unanimously that the variances be **granted**. Vote carried 5 – 0.

OTHER BUSINESS

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.

Mrs. Heffelfinger read the letter requesting to the Board requesting permission to reapply.

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

Mrs. Heffelfinger read the letter requesting to the Board requesting permission to reapply.

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

ELECTION OF OFFICERS

Mr. Rickard, Secretary to the Board, came into the meeting to supervise the Election.

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Mr. Rickard opened the nominations for Chairman.

Motion was made by Mr. Mills and seconded by Mr. McCabe to nominate Mr. Callaway as Chairman.

There as a consensus that the nominations for Chairman be closed.

Nominations for Chairman were closed.

Motion was adopted to nominate Mr. Callaway as Chairman; 5 yea

Vote by roll call:

Mr. McCabe	-	yea
Mr. Workman	-	yea
Mr. Hudson	-	yea
Mr. Mills	-	yea
Mr. Callaway	-	yea

Mr. Rickard opened nominations for Vice Chairman.

Motion was made by Mr. Mills and seconded by Mr. Hudson to nominate Mr. McCabe for Vice Chairman.

There was a consensus that the nominations for Vice Chairman be closed.

Motion was adopted to nominate Mr. McCabe as Vice Chairman; 5 yea

Vote by roll call:

Mr. Hudson	-	yea
Mr. Workman	-	yea
Mr. Mills	-	yea
Mr. Callaway	-	yea
Mr. McCabe	-	yea

The meeting was turned over to Mr. Callaway, the new Chairman.

Motion was made by Mr. Mills and seconded by Mr. Hudson to appoint Mr. Rickard as secretary. Vote carried 5 – 0.

Meeting Adjourned 8:54 p.m.