



Board of Adjustment

Agendas & Minutes

MINUTES OF AUGUST 2, 2004

The regular meeting of the Sussex County Board of Adjustment was held Monday evening August 2, 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. McCabe, 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 19, 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. 8720 – Dennis W. and Shandra E. Gaughan – northwest of Route One, west of Lantern Lane, being Lot 7 within Colonial East Mobile Home Park.

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

Mr. Rickard presented the case. Dennis and Shandra Gaughan were sworn in and testified requesting a 4-foot variance from the required 20-foot separation requirement between units in a mobile home park; that they purchased the unit in February 2004; that the proposed addition will measure 10' x 20'; that the proposed decks will measure 4' x 10' and 6' x 10'; that they plan to remove the existing deck; and that the proposed additions will be 16-foot from the neighboring unit.

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. 8721 – Christopher Coviello – southeast of Route 22, northwest of Harbor Drive, being Lot 11 within Masseys Landing Mobile Home Park.

A variance from the separation requirement between units in a mobile home park, a variance from the rear yard setback requirement and a variance from the maximum allowable height requirement.

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Mr. Rickard presented the case. Christopher Coviello was sworn in and testified requesting a 2-foot variance from the required 20-foot separation requirement between units, a 5-foot variance from the required 5-foot rear yard setback requirement and a 0.65-foot variance from the required 22-foot height requirement in a mobile home park; that he purchased the unit in November 2003; that he obtained a building permit to raise and renovate the dwelling; that the dwelling was raised to meet the Flood Zone requirement; that the deck on the side yard is adjacent to his neighbors porch; and that he wants to build a deck off the rear of the dwelling up to the bulkhead line.

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 5 – 0.

Case No. 8723 – Raab Ford Partnership – south of Route 54, west of Cape Windsor Development entry, being within Verandah Bay.

A variance from the front yard setback requirement and a variance from the front yard setback requirement for a sign.

Mr. Rickard presented the case. Tom Ford was sworn in and testified requesting a 10-foot variance from the required 40-foot front yard setback requirement and a 20-foot variance from the required 25-foot front yard setback requirement for a temporary development sign; that a 12-unit development is proposed for the referenced property; that the old Route 54 is only used to gain access to the property; that the 10-foot variance will allow more room for open space and courtyards; and that the proposed sign will measure 10' x 20' and will be 2-sided.

Mr. Rickard stated that the temporary development sign cannot be larger than 128-square-foot.

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 with the stipulation that the sign does not exceed the 128-square-foot requirement**. Vote carried 5 – 0.

Case No. 8724 – Vineyard Communities, LLC – north of Route 9, 3,364 feet southwest of Route One, within Vineyard at Nassau Valley.

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A variance from the minimum size for parking spaces and a variance from the minimum width requirement for an interior drive.

Mr. Rickard presented the case. Steve Schwartz and Bill Riter were sworn in with Jim Fuqua, Attorney, present on behalf of the application, and testified requesting a 1.5-foot variance, a 2-foot variance, and a 3-foot variance from the required parking space requirements of 10' x 20' and the driveway requirement of 25-foot width; that the proposed development will consist of 984 residential units, 132,000-square-foot of retail space and 32,400-square-foot of office space; that proposed plans includes 8-parking garages; that the development will offer 3,900-parking spaces; that the garages will provide 2,270 of the parking spaces; that the proposed variances are only for the garage parking spaces; that the surface parking spaces will meet all requirements; that the proposed parking spaces will measure 8.5' x 18'; that the proposed interior drive will measure 22-foot or 24-foot; that a study has been conducted to determine the proposed size of the parking garages; that the proposed parking space size allows enough room for 85% of today's vehicles; that the garages are designed with a ClearSpan design which will allow the size of the parking spaces to be adjusted; and that they would like to ask the Board to consider amending the number of spaces they could reduce.

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. Workman, and carried unanimously that the case be **denied since it does meet the standards for granting a variance**. Vote carried 5 – 0.

Case No. 8725 – Donald and Louise Robertson – south of Route 54, south of East Stoney Run, being Lot 1 within Keenwick Sound Phase I Development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Donald and Louise Robertson were sworn in and testified requesting a 5-foot variance from the required 10-foot side yard setback requirement for an attached shed; that the attached shed measures 5' x 11'; that the building permit was issued with the setback requirements for a detached shed; that the Architecture Board is in support of the application; and that the shed is built to accent the dwelling and neighborhood.

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James Beall was sworn in and testified in support of the application and stated; that he is the adjacent neighbor; and that he has no objection to the shed.

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 variance be **granted since it will not alter the character of the neighborhood and since it was approved by the Homeowner's Association.** Vote carried 5 – 0.

Case No. 8726 – Kevin Dodd – west of Route One, 2 miles south of York Road, being Lot 1.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Kevin Dodd was sworn in and testified requesting a 5-foot variance from the required 10-foot side yard setback requirement for a proposed gazebo; that he is the contractor for the property owners; that he realized that a variance would be needed; and that the gazebo is not built yet.

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. 8727 – Lynda R. Lake and Robin Erthal – east of Road 271, 3,000 feet northeast of Route One.

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

Mr. Rickard presented the case. Lynda Lake and Robin Erthal were sworn in and testified requesting a 45.5-foot variance from the required 150-foot lot width requirement for a parcel; that there are 2-non-conforming dwellings on the parcel; that the existing

shed and detached garage will be removed; that they have a contract to purchase the property pending the Board's decision; and that they have no objection to a shared driveway.

Patricia Frasier was sworn in and testified in opposition to the application and stated that she owns the adjacent property; that she is concerned for any additional entrances on that road; and that she would support a shared driveway.

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Mr. Rickard stated that the office received a petition with 16 signatures 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 having 2 existing non-conforming dwellings and since it is a minimum variance not created by the Applicant.** Vote carried 5 – 0.

Case No. 8728 – Dave and Lee George – west of Road 279B, north of Bookhammer Landing Road, being Lots 65 and 70 within Joy Beach Development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Dave and Lee George were sworn in and testified requesting a 5-foot variance from the required 10-foot side yard setback requirement for a pool and deck; that they own the adjacent lot; that they had to build up the lot with fill dirt for the construction of the pool; that they want to extend the deck out over the fill dirt; and that they submitted a letter 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. 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. 8729 – Joseph and Rose Ann Gamba – east of Road 543, 1,000 feet northeast of railroad, being Lot 5 within Margaret Martin Subdivision.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. John Tarburton, Attorney, on behalf of the application, testified requesting a 5-foot variance from the required 10-foot side yard setback requirement; that the encroachment was discovered by a survey done for

settlement; that the sellers of the property purchased the property as it is today; that the dwelling was built in 1977; that the parcel was enlarged in 1982; that they are not certain of the date of construction on the shed; that the shed is supported by posts driven into the ground making it impossible to move the shed into compliance; that the encroachment was not created by the Applicant; and that the shed does not alter the character of the neighborhood.

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

Case No. 8730 – John and Katherine Focht – north of Route 24, 845 feet west of Sunset Lane.

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

Mr. Rickard presented the case. John Focht was sworn in and testified requesting a 2-foot variance from the required 20-foot rear yard requirement and 8-foot variance from the required 15-foot side yard setback requirement for a proposed attached garage; that the proposed attached garage will measure 20' x 40'; that the neighbors are in support of the application.

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

Case No. 8731 – Donald Blythe – southeast of Road 298, southeast of Ritter Drive, being Lot 26 within William Ritter Manor Development.

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

Mr. Rickard presented the case. Patricia Blythe and Derek Parker were sworn in and testified requesting a 4-foot variance from the 30-foot front yard setback requirement and a 1-foot variance from the 5-foot rear yard setback requirement; that they used existing markers on the property; that he actually thought they had an extra 10-foot from

the required setback; that he is the builder and now requires a placement survey prior to building; that the shed was on the property prior to construction of the dwelling; and that they submitted a survey.

Mr. Rickard stated that the office received 1 letter in support of the application.

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Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the variances be **granted since it will not alter the character of the neighborhood and since the builder has taken steps to prevent future encroachments**. Vote carried 5 – 0.

Case No. 8732 – Wayne Dayton Kline – west of Road 409, 537 feet south of Route 24.

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

Mr. Rickard presented the case. Wayne Kline was sworn in and testified requesting a special use exception to place a manufactured home on a medical hardship basis; that he plans to place a double-wide manufactured home on his mother's property; that he and his family help care for his mother; and that the detached garage and second dwelling will be demolished.

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 on the neighborhood**. Vote carried 5 – 0.

Case No. 8733 – YMCA Of Delaware – south of Route One-A, 369 feet northwest of Route One-A.

A variance from the maximum square footage for a sign.

Mr. Rickard presented the case. Mike Hewitt was sworn in and testified requesting a 76-foot variance from the required 100-foot wall sign requirement; that the proposed wall sign measures 176-square-foot; that the total length of the building is 200-feet; that the sign will cover less than 1% of the wall; and that they 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 variance be **granted since it is not retail space which make it a unique request**.
Vote carried 5 – 0.

Case No. 8734 – David A. Deibel and James A. Barnes, Jr. – south of Route One, southeast of Delaware Avenue, being Lot J-59 within Sea Air Mobile City Mobile Home Park.

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

Mr. Rickard presented the case. James Barnes, Jr. was sworn in and testified requesting a 13-foot variance from the required 20-foot separation requirement between units in a mobile home park; that they plan to build a screen porch and deck; that the screen porch will measure 12' x 26'; that the deck will measure 8' x 12'; that there will be 7-foot between units when complete; and that the park owner 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. McCabe, and carried unanimously that the variance be **granted since it will not alter the character of the neighborhood**.
Vote carried 5 – 0.

OLD BUSINESS

Case No. 8701 – John and Mary Vittek – north of Route 20, southwest of Egret Road, being Lot 10 within Swann Estates Development.

A variance from the rear yard setback requirement.

The Board discussed the case which has been tabled since July 12, 2004.

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. 8704 – David C. Ludema and Kent Sign Co. – northeast intersection of U.S. Route 13A and Road 642, being Lot 1 within C. Leon Cannon Development.

A special use exception to place a billboard.

The Board discussed the case which has been tabled since July 12, 2004.

Motion by Mr. McCabe, seconded by Mr. Workman, and carried unanimously that the special use exception be **denied since it will alter the essential character of the neighborhood and may effect property values**. Vote carried 4 – 1.

Meeting Adjourned 9:20 p.m.