



Board of Adjustment
Agendas & Minutes

MINUTES OF OCTOBER 18, 2004

The regular meeting of the Sussex County Board of Adjustment was held Monday evening October 18, 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, Mr. Berl – Assistant County Attorney, Mr. Rickard – Secretary to the Board, Ms. Hudson – 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. Hudson, and carried unanimously to approve the Minutes of October 4, 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. 8810 – Lois McGregor – south of Route 54, west of East Stoney Run, being Lot 68 within Keenwick Sound Phase I Development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Lois McGregor was sworn in and testified requesting a 10-foot variance from the required 10-foot side yard setback requirement for an attached carport; that the proposed attached carport will measure 13'2 x 28'; that the Homeowner's Association will wait for the Board's decision; and that her 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. Workman, seconded by Mr. Hudson, and carried unanimously that the case be taken under advisement. Vote carried 4 – 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 variance be **denied**. Vote carried 4 – 0.

Case No. 8811 – Ann Janette Lewis and Ahmet Ceylan – northeast of Road 331, southeast of road 331A, being Lot 1 within Possum Point Development.

A variance from the side yard setback requirement.

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Mr. Rickard presented the case. Ann Janette Lewis and Ahmet Ceylan were sworn in and testified requesting a 3.5-foot variance from the required 10-foot side yard setback requirement and a 10.8-foot variance from the required 15-foot side yard setback requirement for an existing dwelling; that they obtained the building permit; that the company placing the modular dwelling were aware of the setback requirements; that the company stated the dwelling could not be placed on the lot any other way; that they can provide the name and address of the company; and that the encroachment was discovered on the final placement survey.

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 that a letter be sent to the company that placed the dwelling**. Vote carried 4 – 0.

Case No. 8812 – Fahmi Smadi – west of Road 214, west of Road 224.

A special use exception to place a manufactured home for security purposes.

Mr. Rickard presented the case. Fahmi Smadi was sworn in and testified requesting a special use exception to place a manufactured home for security purposes; that the unit is a 1984 and measures 14' x 70'; that he would live in the unit; that he currently lives on the property next door; that the camper is used for storage only; that there is an alarm system in the store; that the unit is already on the property; that he was not aware that a permit was required prior to placing the unit on the property; that the dwelling he currently lives in is too small and infested with crickets; and that he rents the dwelling next door.

Linda Ashley was sworn in and testified in opposition to the application and stated that she owns the property behind the store; that she has a fence on her property; that the fence is 5-foot inside her property line; and that the unit is only 5-foot from her fence.

Annie King was sworn in and testified in opposition to the application and stated that she owns the dwelling that the Applicant currently resides in; that she is not aware of any cricket problem; that she owned the store for 30-years and never had any security problems; and that you cannot see the entrance to the store from the placement of the unit.

By a show of hands 2 parties appeared in opposition to the application.

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Motion by Mr. Workman, seconded by Mr. Mills, and carried unanimously that the special use exception be **denied since it will adversely effect the neighborhood and that the Applicant did not prove the need for the extra security and did not supply a drawing with the application and since the unit was placed without a permit.**

Case No. 8813 – Kelly and Reece Hales, Jr. – south of Road 64, 1,150 feet east of Route 13A.

A variance from the minimum lot width and square footage requirements for a parcel and a variance from the side yard setback requirement.

Mr. Rickard presented the case. Kelly Hales was sworn in and testified requesting a 20-foot variance from the required 150-foot lot width requirement and a 31-foot variance from the required 150-foot lot width requirement for a parcel, a 40-square-foot variance from the required 32,670-square-foot lot size requirement and a 13-foot variance from the required 15-foot side yard setback requirement for a shed; that the dwelling and shed have been on the property since around 1920; that she plans to build a new dwelling on the remaining 8-acre parcel; that she has no objection to a shared driveway; that the surveyor made a mistake when preparing the survey; and that she should be able to amend the survey to comply with the lot size requirement.

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 **left open to allow the Applicant to provide the Board with a new survey and with the stipulation that there will be a shared driveway.** Vote carried 4 – 0.

Case No. 8814 – Vivian Jives – west of Road 313, 30 feet south of Holiness Lane, being Lot 3.

A variance from the side yard setback requirement and a special use exception to connect two (2) manufactured homes to make one (1) unit.

Mr. Rickard presented the case. Vivian Jives and Gwendolyn Green were sworn in and testified requesting a 7.5-foot variance on each side from the required 10-foot side yard setback requirement and a special use exception to connect two (2) manufactured homes to make one (1) unit; that the existing unit measures 26' x 44'; that the proposed unit will measure 15' x 70'; that the proposed unit will be placed to the rear of the existing unit; that there will be only one kitchen; that they will have a contractor connect the two units; and that they will have the same siding on both units.

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Mr. Mills suggested placing the unit perpendicular to the existing unit which may eliminate the need for the requested variance.

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 **left open to allow the applicant to submit a survey and for the Applicant to decide on the placement of the proposed unit.** Vote carried 4 – 0.

Case No. 8815 – Ronald Belicki – north of Road 270, west of Candlelight Lane, being Lot 19 within Colonial East Mobile Home Park.

A variance from the separation requirement between units in a mobile home park and a variance from the maximum allowable lot coverage in a mobile home park.

Mr. Rickard presented the case. Carol Belicki was sworn in and testified requesting a 6-foot variance from the required 20-foot separation requirement between units and a 1-foot variance from the required 20-foot separation requirement between units in a mobile home park and a 3% variance from the required 35% maximum allowable lot coverage requirement in a mobile home park; that the shed will measure 8' x 12'; and that the she will be used for storage only.

Mr. Rickard stated that there have been numerous variances granted in the mobile home park.

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

Motion made by Mr. Hudson, seconded by Mr. Mills, and carried unanimously that the variances be **granted since it will have no adverse effect to the neighborhood and since similar variances have been granted in the park.** Vote carried 4 – 0.

Case No. 8816 – Chris Schell – southeast of Road 270, 250 feet north of Route One, being Lot C within Sandpiper Plaza.

A special use exception for a day care facility.

Mr. Rickard presented the case. Chris and Lori Schell were sworn in and testified requesting a special use exception for a day care facility; that the hours of operation will be Monday through Friday from 8:00 a.m. to 10:00 p.m. and Saturday from 8:00 a.m. to 11:00 p.m.; that they will care for approximately 60-children; that the ages of the children

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will be from 2-years to 12-years old; that the building will be 12,000-square-foot in size; that there will be 24-parking spaces; and that they will have 10-employees.

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 special use exception be **granted since it will have no adverse effect to the neighborhood and for children ages 2 – 12 and for the hours mentioned in the testimony**. Vote carried 4 – 0.

Case No. 8817 – Paul and Nellie Brasure – west of Road 331, 1,300 feet south of Road 334A.

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

Mr. Rickard presented the case. Nellie Brasure as sworn in and testified requesting a 40.99-foot variance from the required 150-foot lot width requirement for a parcel; that she wants to subdivide a parcel for her grandson; that there are 2-dwellings on the parcel now; that she lives in one and farm help lives in the other dwelling; and that she does not feel there can be a shared driveway due to the existing well.

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. Hudson, and carried unanimously that the case be taken under advisement. Vote carried 4 – 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 variance be **granted since it will not alter the character of the neighborhood**.

Vote carried 4 – 0.

Case No. 8818 – Thomas L. Nowland, III – south of Route 54, west of Delcy Trailer Court Road, being Lot 6 within Delcy Mobile Home Park.

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

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Mr. Rickard presented the case. Thomas Nowland, III was sworn in and testified requesting a 9-foot variance from the required 10-foot front yard setback requirement, a 9-foot variance from the required 10-foot side yard setback requirement and a 6.3-foot variance from the required 20-foot separation requirement between units in a mobile home park; that he wants to replace an existing 14' x 52' manufactured home; that the proposed unit will measure 14' x 52'; that the proposed unit will be within the same footprint as the existing unit; that the existing unit is a 1975; that the shed will be demolished; and that he submitted pictures.

Mr. Rickard stated that the office received 1 letter 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. Workman, and carried unanimously that the variances be **granted since the proposed unit will be within the same footprint as the existing unit and with the stipulation that there be no further development on that lot.** Vote carried 4 – 0.

Case No. 8819 – Sandra J. Montuori – east of Road 357, northwest of Sherman Drive, being Lot 82 within Murray's Estates Addition.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Sandra Montuori was sworn in with Daniel Myers, Attorney, on behalf of the application, and testified requesting a 5-foot variance from the required 10-foot front yard setback requirement for an existing deck; that the deck was built in 2002; that the Applicant purchased the property in 2000; that the property is unique in shape due to the cul-de-sac; that her contractor obtained the building permit; that the location of the dwelling and the lay out of the cul-de-sac the deck does not alter the character of the neighborhood; that the neighbors are in support of the application; that the Homeowner's Association is in support of the application; and that 2 letters were submitted in support of the application.

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 due to the unique shape of the parcel and since it will not alter the character of the neighborhood and is a minimum variance request.**

Vote carried 4 – 0.

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Case No. 8820 – Hugh and Phyllis Revell – south of Road 421, northwest of Collins Court, being Lot 9 within Atkins Acres Development.

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

Mr. Rickard presented the case. Hugh Revell and Lisa Cramer were sworn in and testified requesting a 13-foot variance from the required 30-foot front yard setback requirement for an existing detached garage; that the garage was built in 1989; that the garage measures 24' x 24'; that they obtained a building permit; and that the Zoning Inspector measured for the variance.

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

Motion by Mr. Hudson, seconded by Mr. Mills, and carried unanimously that the variance be **granted for a 13-foot variance since it will not alter the character of the neighborhood.** Vote carried 4 – 0.

Mr. Lawrence Lank was sworn in and read the letter he submitted to the Board explaining the history of the subdivision for the next three cases, which are Case No. 8821 – Christi and Miguel Berrios, III, Case No. 8822 – Wesley Collins T/A Wesley Collins Builder and Case No. 8823 – Accessible Home Builders, Inc.

Case No. 8821 – Christi and Miguel Berrios, III – west of Road 446, 645 feet north of Road 74, being Lot 28 within Bierman Family LLC Subdivision.

A variance from the minimum lot width and lot size requirements for a parcel.

Mr. Rickard presented the case. Christi and Miguel Berrios, III were sworn in and testified requesting a 50-foot variance from the required 150-foot lot width requirement and a 0.07-square-foot variance from the required 32,670-square-foot lot size requirement for a parcel; that they were not aware that the lot size requirements were not met; that

they plan to build a dwelling on the parcel; and that they have no objection to a shared driveway.

Mr. Lank stated that the lots have DelD.O.T approval for shared driveway which is noted as combined access on the survey.

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. Hudson, and carried unanimously that the case be taken under advisement. Vote carried 4 – 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 with the stipulation of a combined driveway and with a letter sent to the developer and surveyor.** Vote carried 4 – 0.

Case No. 8822 – Wesley Collins T/A Wesley Collins Builder – west of Road 446, 645 feet north of Road 74, being Lots 25 and 26 within Bierman Family LLC Subdivision.

A variance from the minimum lot width and lot size requirements for a parcel.

Mr. Rickard presented the case. Wesley Collins was sworn in and testified requesting a 50-foot variance from the required 150-foot lot width requirement and a 0.07-square-foot variance from the required 32,670-square-foot lot size requirement for a parcel; that he owns Lots 25 and 26; that he plans to build spec homes on the properties; that he was showed an approved survey for the lots and did not notice the errors; and that Accessible Home Builders made him aware of the mistake.

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 case be taken under advisement. Vote carried 4 – 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 with the stipulation of a combined driveway and with a letter sent to the surveyor and developer.** Vote carried 5 – 0.

Case No. 8823 – Accessible Home Builders, Inc. – west of Road 446, 745 feet north of Road 74, being Lot 27 within Bierman Family LLC Subdivision.

A variance from the minimum lot width and lot size requirements for a parcel.

Mr. Rickard presented the case. Scott Lahman was sworn in and testified requesting a 50-foot variance from the required 150-foot lot width requirement and a 0.07-square-foot variance from the required 32,670-square-foot lot size requirement for a parcel; that he owns Lot 27; that he did not even consider an error on an approved survey; and that he will have a combined access.

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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 case be taken under advisement. Vote carried 4 – 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 with the stipulation of a combined driveway and with a letter sent to the surveyor and developer.** Vote carried 4 – 0.

Case No. 8824 – Moonlight Architecture, Inc. – northwest of Hassell Street, east of Loretta Street, being Lot 38 and ½ Lot 37 within Bayview Park Development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Fred Bottom was sworn in and testified requesting a 3.1-foot variance from the required 10-foot side yard setback requirement for a proposed second story addition; that the existing dwelling was built in 1968; that they plan to extend the existing bedroom over the existing sunroom; that a variance was approved for this property in 1993; and that the Applicant owns the adjacent properties.

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 that there was no opposition.** Vote carried 4 – 0.

OLD BUSINESS

Case No. 8783 – Edwin and Nancy Hampton – south of Route 54, west of Tyler Avenue, being Lot 35, Block 5 within Cape Windsor Development.

A variance from the side yard setback requirement.

The Board discussed the case which has been tabled since September 27, 2004.

Motion by Mr. Hudson, seconded by Mr. Mills, and carried unanimously that the case be **tabled until November 1, 2004**. Vote carried 4 – 0.

Case No. 8776 – Mark Yoder, Jr. – west of Route 16, 2,650 feet north of Road 587.

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A special use exception for expansion of an existing convalescent home.

The Board discussed the case which has been tabled since September 20, 2004.

Motion by Mr. Workman, seconded by Mr. Mills, and carried unanimously that the special use exception be **granted with the stipulation that a buffer be in place specified by the Planning and Zoning Commission**. Vote carried 4 – 0.

Case No. 8797 – Sea Colony Recreational Association – east of Pennsylvania Avenue, east of Jefferson Bridge Road, being Sea Colony Phase I, II, III, IV, V, VI and VII.

A variance from the minimum size requirement for a parking space.

The Board discussed the case which has been tabled since October 4, 2004.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variance be **granted for 9' x 18' space since that size already existed**.
Vote carried 4 – 0.

Case No. 8799 – Louis and Clare Szeliga – south of Route 54, west of Grant Avenue, being Lot 46 within Cape Windsor Development.

A variance from the rear yard setback requirement.

The Board discussed the case which has been tabled since October 4, 2004.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the case be **tabled until November 1, 2004**. Vote carried 4 – 0.

Case No. 8749 – Arthur Scheetz and Nancy E. Levensgood – southeast of Road 298, northwest of Ritter Drive, being Lot 16, Section 1 within William Ritter Manor Development.

A variance from the front yard setback requirement.

The Board discussed the case which has been tabled since August 16, 2004.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variance be **granted for a 13.8-foot variance for the shed and a 2.5-foot variance for the garage since it will not alter the character of the neighborhood.**

Vote carried 4 – 0.

Meeting Adjourned 10:15 p.m.