



## *Board of Adjustment*

Agendas & Minutes

### **MINUTES OF NOVEMBER 15, 2004**

The regular meeting of the Sussex County Board of Adjustment was held on Monday evening November 15, 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, Ms. Hudson – Zoning Inspector II, and Mrs. Norwood – Recording Secretary.

Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously to approve the Revised Agenda with the correction that Case No. 8840 – Anderson Homes was withdrawn. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of November 1, 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.

### **PUBLIC HEARINGS**

**Case No. 8841 – Richard and Ann Gilpin** – north of Road 358, west of Shad Street, being Lot 256 within Bayshore Mobile Home Park.

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

Mr. Rickard presented the case. Richard Gilpin was sworn in and testified requesting a 2.5-foot variance from the required 20-foot separation requirement between units in a mobile home park; that the proposed enclosed porch will measure 8' x 25'; that there are similar porches in the park; that the mobile home park is in support of the application; and that the porch is within character of the neighborhood.

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 for a 2.5-foot variance**. Vote carried 5 – 0.

**Case No. 8842 – Richard Hitchens** – east of Route One, north of Bay Road, being Lot 38 within Tower Shores Development.

A variance from the front yard setback requirement.

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Mr. Rickard presented the case. Richard Hitchens was sworn in and testified requesting a 15-foot variance from the required 30-foot front yard setback requirement for a set of stairs; that he replaced the existing stairs; that the stairs needed to be brought up to building code standards; that the stairs were reconfigured to allow for the required headroom needed for building code; that the existing building is non-conforming; that there is still adequate parking; 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 and there have been numerous variances granted in the area**. Vote carried 5 – 0.

**Case No. 8843 – Neil and Edna Dunn** – south of Road 484, 3,985 feet northeast of Road 483, being Lot 3 within Fleetwood Pond Development.

A variance from the rear yard setback requirement.

Mr. Rickard presented the case. Lee Thomas was sworn in and testified requesting a 1.9-foot variance from the required 20-foot rear yard setback requirement; that the previous owner purchased the property in 1999; that the previous owner obtained a building permit in 2001 to construct a detached garage; that only the foundation has ever been completed; that the Applicant purchased the property in August 2004; that a survey done for settlement showed the encroachment; that the Applicant's wish to complete the detached garage; and that they will obtain a building permit for the shed.

By a show of hands, 6 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 variance be **granted since it will not alter the character of the neighborhood**.

Vote carried 5 – 0.

**Case No. 8844 – Shannon Woods** – west of Road 14, northwest of Sea Air Avenue, being Lot A-72 within Sea Air Mobile City Mobile Home Park.

A variance from the side yard and rear 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. Shannon Woods was sworn in and testified requesting a 5-foot variance from the required 5-foot rear yard setback requirement, a 2.5-foot variance from the required 20-foot separation requirement between units in a mobile home park and a 6-foot variance from the required 20-foot separation requirement between units in a mobile home park for a shed; that the proposed shed will measure 10' 10'; that the existing shed will be removed; and that a picture was submitted.

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 variances be **granted since it will not alter the character of the neighborhood and since there have been numerous variances granted in the mobile home park.**

Vote carried 5 – 0.

**Case No. 8845 – David and Kathy Ritter** – west of Road 297, 1,130 feet northwest of Route 24.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Paul Collins, Jr. was sworn in and testified requesting a 9.5-foot variance from the required 15-foot side yard setback requirement for an existing shed and lean-to; that the shed measures 46' x 60'; that the lean-to measures 10' x 30'; that the building is used as a race car shop for his children; that he stores 4-go-carts, 2-micro-sprints and 2-modified race cars; that he understood that lean-to could be built closer to the property line; and that he obtained the building permits.

Sterling Doughty was sworn in and testified in opposition to the application and stated that he owns the adjacent property; that the Applicant spoke with him in reference to the lean-to; and that there are loud noises coming from the shed all night long.

Gail Norwood was sworn in and testified in opposition to the application and stated that she has lived in the neighborhood for forty-years; that the Applicant has no

regard for property lines; that they have open fires and raw sewage running out on the ground; and that she feels he is running a business from the shed.

Tara Doughty was sworn in and testified in opposition to the application and stated that some of the fires have jumped over to their property; that there is a very loud exhaust fan; that her son will not stay in his bedroom due to the loud noise from the fan; and that she submitted a petition in opposition.

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William Norwood was sworn in and testified in opposition to the application and stated that the sewer is running under ground to his property; that they have dug a deep hole for their fires; and that they have burnt and torn down trees from his property.

In rebuttal, Paul Collins, stated that he has spent a lot of time and money to clean up the property; that there is no sewer run off; that there is a wash bay in the shed and a sink for washing; that the exhaust fan is a standard attic exhaust fan from Lowe's; and that he has applied for a conditional use.

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

By a show of hands 6 parties appeared in opposition to the application.

Motion by Mr. McCabe, seconded by Mr. Workman, and carried unanimously that the case be **tabled until December 6, 2004**. Vote carried 5 – 0.

**Case No. 8846 – Sun Home Services, Inc.** – west of Route One, northwest of Golden Avenue, being Lot M-46 within Sea Air Mobile City Mobile Home Park.

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

Mr. Rickard presented the case. John Kates was sworn in and testified requesting an 8-foot variance from the required 20-foot separation requirement between units in a mobile home park; that he replaced an existing shed; that the new shed measures 8' x 12'; and that the shed meets the setback requirements.

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 variance be **granted since it will not alter the character of the neighborhood and since there have been numerous variances granted in the park**. Vote carried 5 – 0.

**Case No. 8847 – Plynn L. and Norman McKinney** – east of Road 312, east of Wynikaka Road, being Lot 261 within Riverdale Development.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Brenda McKinney was sworn in and testified requesting a 2.5-foot variance from the required 30-foot front yard setback requirement; that she has a Power of Attorney for the Applicant; that the Applicant's have moved to the area as their permanent residence; that the unit measure 28' x 40'; that the property

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owner Mr. Clark obtained the placement permit; that Coast Survey staked the property for the placement of the unit; and that Oakwood Homes never came out to the site to ensure proper placement.

By a show of hands 4 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 variance be **granted with the stipulation that a letter be sent to Oakwood that they must have a survey prior to obtaining a placement permit and since it will not alter the character of the neighborhood and was not created by the Applicant.**

Vote carried 5 – 0.

**Case No. 8848 – Keith P. Joseph** – 600 feet north of Route 54, 1.2 miles east of Road 413.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Keith P. Joseph was sworn in and testified requesting a 1.5-foot variance from the required 15-foot side yard setback requirement for a manufactured home; that he replaced an existing 12' x 60' unit with a 14' x 70' unit; that Manufactured Housing Concepts obtained the placement permit and placed the unit; that he used the existing hook ups for sewer, water and electric; and that the manufactured home company never made him aware of the side yard setback encroachment.

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. Hudson, 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. 8849 – Anna Grace Lorah and Nancy Ann and Eric D. Maier** – southeast of Route 22, south of East River Drive, being Lot 53 within White House Beach Mobile Home Park.

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

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Mr. Rickard presented the case. Eric Maier was sworn in and testified requesting a 6-foot variance from the required 20-foot separation requirement between units and a 0.5-foot variance from the required 20-foot separation requirement between units in a mobile home park; that he built a 12'x 15' addition and a 12'x 20' deck; that he was not aware of the encroachments until after completion of the additions; and that the unit has been on the lot since the 1970's.

The Board recessed for 5-minutes to allow the Zoning Inspector to verify the setback requirements for the mobile home park.

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. 8850 – Francis and Susan Barnes** – south of Route One, south of Prince Street, being Lot 214 within Camelot Mobile Home Park.

A variance from the maximum allowable lot coverage in a mobile home park.

Mr. Rickard presented the case. Francis and Susan Barnes and Frank Joseph were sworn in and testified requesting a 161.50-square-foot variance from the required 35% allowable lot coverage in a mobile home park; that they have moved to the area with their handicap son; that they had a 10' x 70' addition built; that the manager of the park has approved the request; that the neighbors are in support of the application; and that they do not meet the separation requirement.

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 case be **tabled until the pending variance can be scheduled**. Vote carried 5 – 0.

**Case No. 8851 – GRL Enterprises** – northwest of Route 17, 500 feet northeast of Road 52C.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Linda Zatwarnytskij was sworn in and testified requesting a 1-foot variance from the required 10-foot side yard setback requirement for a

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proposed manufactured home; that the proposed unit will measure 28' x 52'; that the lot is approximately 50-foot wide; and that there was a unit on the property.

Sheila Warrington and John Bridgeham were sworn in and testified in opposition to the application and stated that the lot is too small for the proposed unit; that the proposed placement of the unit is out of character of the neighborhood; that the septic system is in poor shape; and that they submitted pictures.

Mr. Rickard read a letter of opposition into the record.

By a show of hands 3 parties appeared in support of the application.

By a show of hands 5 parties appeared in opposition to the application.

Motion by Mr. McCabe, seconded by Mr. Workman, and carried unanimously that the case be **tabled until December 6, 2004**. Vote carried 5 – 0.

**Case No. 8852 – David and Lee George** – north of Road 279B, east of Hunt Club Road, being Lot 65 within Joy Beach Development.

A variance from the rear yard setback requirement.

Mr. Rickard presented the case. Dave George was sworn in and testified requesting a 4-foot variance from the required 20-foot rear yard setback requirement; that the steps serve the second floor rear entrance to the pool area for the residence; that he was not clear on the setback requirement for a second level stairway; and that he submitted a drawing.

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. Workman, and carried unanimously that the variance be **granted due to the uniqueness of the lot and since it will not alter the character of the neighborhood**. Vote carried 5 – 0.

**Case No. 8853 – Savannah Café** – southwest of Road 269-A, 308 feet northwest of Route 9, within Villages of Five Points.

A variance for a second wall sign.

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Mr. Rickard presented the case. Darlene Matthes was sworn in and testified requesting a variance for a second wall sign; that the Applicant is an end unit in an existing shopping center; that the existing sign faces the north village; that the second sign would be on the main store front; that the proposed sign is the same size as the existing sign; and that the sign is desired for more visibility to their business.

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. 8854 – Louise and Malcolm Mellington, III** – south of Route 54, east of Hickory Lane, being Lot 29 within Keen-Wik Subdivision 4.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Louise and Malcolm Mellington, III were sworn in and testified requesting a 0.7-foot variance from the required 10-foot side yard setback requirement, a 3.4-foot variance from the required 10-foot side yard setback requirement and a 0.3-foot variance from the required 10-foot side yard setback requirement; that they purchased the property in 2001; that they are the fourth owners of the property; that the decks were built in 1984; that there have been two different surveys done on the property; that each survey shows different encroachments; and that they submitted a handout to the Board.

Mr. Rickard stated that the office had received 2 letters in support of the application.

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



Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously that the variances be **granted since it will not alter the character of the neighborhood and was not created by the Applicant.** Vote carried 5 – 0.

### **OLD BUSINESS**

**Case No. 8827 – Mr. and Mrs. Ivory H. Conway** – east of U.S. Route 13, 3,300 feet south of Road 583.

A special use exception to operate a boardinghouse.

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The Board discussed the case which has been tabled since November 1, 2004.

Motion by Mr. Workman, seconded by Mr. Hudson, and carried unanimously that the special use exception be **denied since the use, a boardinghouse, is out of character with the neighborhood.** Vote carried 5 – 0.

**Case No. 8837 – Harold and Lisa Vickers** – south of Road 64, 1,000 feet east of Road 455.

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

The Board discussed the case which has been tabled since November 1, 2004.

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.** Vote carried 5 – 0.

**Case No. 8839 – Duane Hatfield Smith** – east of Route 24, north of Road 275, being Lot 35 within Estates of Sea Chase Development.

A variance from the rear yard setback requirement.

The Board discussed the case which has been tabled since November 1, 2004.

Motion by Mr. Workman, seconded by Mr. McCabe, and carried unanimously that the variance be **denied since the request does not meet the standards for granting a variance.** Vote carried 5 – 0.

**Meeting Adjourned 9:15 p.m.**