



## *Board of Adjustment*

### Agendas & Minutes

### **MINUTES OF NOVEMBER 22, 2004**

The regular meeting of the Sussex County Board of Adjustment was held on Monday evening November 22, 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, with Mrs. Norwood – Recording Secretary.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously to approve the Revised Agenda with the change to hear Case No. 8861 – Kieran P. and Susan L. Bowe first. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of November 15, 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. 8861 – Kieran P. and Susan L. Bowe** – southeast of Road 535, south of North Shore Drive, being Lot 17 within North Shores Development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Tom Cooper was sworn in with Heidi Balliett, Attorney, on behalf of the application and testified requesting a 5-foot variance from the required 15-foot side yard setback requirement and a 4-foot variance from the required 5-foot side yard setback; that the encroachment was discovered at settlement; that the additions were built 16-years ago; that the 6'x 8' shed that shows on the survey is actually a dog pen and will be moved into compliance; that there has never been a Certificate of Compliance issued; that it does not alter the character of the neighborhood; and that it would create a hardship to the current owners to correct.

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

**Case No. 8855 – Steven and Joann Dickerson** – southeast of Route One, northeast of Atlantic Avenue, being Lot EE within Sea Air Mobile City Mobile Home Park.

Minutes

November 22, 2004

Page 2

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

Mr. Rickard presented the case. Dwayne Dickerson was sworn in and testified requesting a 7-foot variance from the required 20-foot separation requirement between units in a mobile home park and a 2.6-foot variance from the required 5-foot side yard setback requirement for a shed; that the shed measures 10'x 10'; that the park approves the placement of the shed; and that there have been similar variances granted in the mobile home park.

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 and since there have been similar variances granted in the park**. Vote carried 5 – 0.

**Case No. 8856 – The Crab Barn Rehoboth** – southwest of Route One, 1.5 miles south of Route 24.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. James Baeurle was sworn in and testified requesting a 29-foot variance from the required 60-foot front yard setback requirement for an outside waiting area; that they wish to create a safer outside waiting area for their patrons; that there will be cement barriers to protect the patrons; that they have a cross access lease with the neighboring business for parking; that they have added an additional 30 parking spaces; and that they meet the minimum parking space requirement.

Mr. Rickard stated that the office received 3 letters in support of 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. James E. Porter** – east of Route 16, south of Dunstan Court, being Lot 78 within Grants Way Development.

A variance from the rear yard setback requirement.

Mr. Rickard presented the case. James Porter was sworn in and testified requesting a 2-foot variance from the required 10-foot rear yard setback requirement; that

Minutes

November 22, 2004

Page 3

the proposed shed will be attached to an existing detached garage; that the proposed shed will measure 10' x 12'; that because of an existing door and window the shed needs to be placed to the rear; that the neighbors are in support of the application; and that the Homeowner's Association 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. Workman, 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. 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 5 – 0.

**Case No. 8858 – Colonial East, L.P.** – northeast of Route One, south of Colonial Lane, being within Colonial East Mobile Home Park.

A variance from the maximum height requirement.

Mr. Rickard presented the case. Steve Class was sworn in and testified requesting a 3-foot variance from the maximum 42-foot height requirement; that the proposed building will be a 3-story self storage building; that the building will be climate controlled; that all access to the storage area is in the rear of the building; that the encroachment is only to conceal the air conditioning units and elevator shaft; that the building has preliminary approval from the Planning and Zoning Commission; and that he submitted drawings.

Mr. Rickard read 1 letter of opposition into the record.

The Board found that no parties appeared in support of or 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 similar variances have been granted in the area.** Vote carried 5 – 0.

**Case No. 8859 – William J. and Elizabeth Folmar** – southwest of Road 297, northeast of Briar Lane, being Lot 83 within Oak Meadows Development.

A variance from the side yard setback requirement.

Minutes  
November 22, 2004  
Page 4

Mr. Rickard presented the case. William and Elizabeth Folmar were sworn in and testified requesting a 2.5-foot variance from the required 10-foot side yard setback requirement for existing sheds; that the sheds have been on the lot for 3-years; that he obtained the building permit for the sheds; that the shed company placed the sheds; that his neighbor is in support of the application; and that he 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 will not alter the character of the neighborhood.** Vote carried 5 – 0.

**Case No. 8860 – Dennis and Karen Lee** – north of Road 360, north of Virginia Drive, being Lot 32 within Bethany Lakes Development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Dennis Lee was sworn in and testified requesting a 1.2-foot variance from the required 10-foot side yard setback requirement for an existing deck; that the deck is on the rear of the dwelling; that there is just one corner that encroaches into the setback; and that he can provide the name and address of the builder.

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 with the stipulation that a letter be sent to the builder and since it will not alter the character of the neighborhood.** Vote carried 5 – 0.

**Case No. 8862 – Ronald Thompson** – south of Road 288A, east of Holly Oak Lane, being Lot 1 within Holly Oak Development.

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

Mr. Rickard presented the case. Ronald Thompson was sworn in and testified requesting a 28-foot variance from the required 40-foot front yard setback requirement and a 11-foot variance from the required 40-foot front yard setback requirement for a proposed detached garage; that the proposed garage will measure 24'x 40'; that he purchased the property in 2001; that the dwelling was built in 1991; that the proposed location is the best location due to the existing septic system; and that the Homeowner's Association is in support of the application.

Minutes  
November 22, 2004  
Page 5

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 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. 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. 8863 – John A. Franklin** – north of Route 26, east of Road 382.

A special use exception to place a manufactured home as a classroom.

Mr. Rickard presented the case. John Franklin was sworn in and testified requesting a special use exception to place a manufactured home as a classroom; that the proposed unit will measure 24'x 40'; that the unit will be used for bible study; that the classes will be on Wednesday and Friday nights; that he has no affiliation with any local churches; that 2 pastors would use the unit for bible study; that he has a 25-year lease on the property with the option to buy; that approximately 40 people attend the bible study per night; that he has adequate space for 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. Workman, seconded by Mr. McCabe, and carried unanimously that the case be **tabled until December 6, 2004**. Vote carried 5 – 0.

**Case No. 8864 – Lisa and Joseph Kollock, III** – west of Route One, north of North Horseshoe Drive, being Lot 16 within Country Club Estates Development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Joseph Kollock, III was sworn in and testified requesting a 4-foot variance from the required 10-foot side yard setback requirement for a proposed inground pool; that the pool will measure 16' x 32'; that the variance is needed to allow for the required walkway and fence; that the property is already landscaped; that the existing dog pen has been removed; that the existing gazebo has been moved to comply with the required setback requirements; that his neighbors support the application; and that there are other pools in the development.

Minutes  
November 22, 2004  
Page 6

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

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

**Case No. 8865 – Elizabeth and Gerald Jubb, Jr.** – northwest of Route 54, west of Wilson Avenue, being Lot 32 within Cape Windsor Development.

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

Mr. Rickard presented the case. Elizabeth and Gerald Jubb, Jr. were sworn in and testified requesting a 5-foot variance from the required 20-foot rear yard setback requirement, a 2.5-foot variance from the required 10-foot side yard setback requirement, and a 5-foot variance from the required 10-foot side yard setback requirement; that they wish to replace an existing unit with a modular dwelling; that they purchased the property in April 2000; that they searched numerous outlets for a dwelling that would fit on the lot within the setbacks; that all the existing improvements will be removed; that there will be a wrap around porch and deck on the proposed dwelling; that they plan to retire to the area; and that there have been numerous variances in the development.

Rosalee Silardo was sworn in and testified in opposition to the application and stated that she is the new Chairman on the Legal Committee Board for the Homeowner's Association; that there is concern for the potential fire hazard; that allowing larger dwellings in the development creates a greater risk of fire jumping dwellings; that the larger dwellings create problems for the development when making repairs to existing utilities; and that they are concerned with water run off.

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

By a show of hands 3 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. 8866 – Phillip and Bonnie Elliott** – 400 feet southeast of Route 36, 1,300 feet northeast of Road 621, being Lot 53 within Simpson Farm Subdivision.

A variance from the setback requirements for a dog kennel.

Mr. Rickard presented the case. Phillip and Bonnie Elliott were sworn in and testified requesting an 80-foot variance from the required 200-foot setback requirement and a 135-foot variance from the required 200-foot setback requirement for a dog kennel;

Minutes

November 22, 2004

Page 7

that the kennel will be located on his father-in-law's property; that he lives on a 1-acre parcel adjacent to the proposed location; that they will have up to 24-dogs; that the kennel will be used for boarding purposes only; that electric and water connections are available in the proposed location; and 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. 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 5 – 0.

**Case No. 8867 – David Costello** – south of Route 54, west of Van Buren Avenue, being Lot 22 within Edgewater Acres Development.

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

Mr. Rickard presented the case. David Costello was sworn in and testified requesting a 22-foot variance from the required 30-foot front yard setback requirement and a 4-foot variance from the required 10-foot side yard setback requirement for a proposed dwelling; that the proposed dwelling will measure 30' x 50'; that he has amended the numbers of the original variance requested to better accommodate his neighbors; that the lot is vacant now; that the road is a dead end; and that he submitted a blueprint and a revised drawing.

Marion Price, Jr. was sworn in and testified in support to the application and stated that he is the adjacent property owner; and that due to the amendments the Applicant has made he is in support of the application.

Mr. Rickard stated that the office received 6 letters in opposition.

Motion by Mr. Hudson, seconded by Mr. McCabe, and carried unanimously that the case be **left open until December 20, 2004 to allow the opposition to review the amendments to the variance request.** Vote carried 5 – 0.

**Case No. 8868 – Louise M. and Tracy B. Norris, Sr.** – south of Road 259, south of North Lake Drive, being Lot 98 within Lazy Lake Development.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Tracy Norris, Sr. was sworn in and testified requesting a 22-foot variance from the required 30-foot front yard setback requirement

Minutes

November 22, 2004

Page 8

for a proposed shed; that the existing shed measures 10' x 10'; that the proposed shed will measure 12' x 16'; that he purchased the property in 1983; that the proposed shed cannot be delivered and placed in the same spot as the existing shed due to the existing septic system; that his property line is 20-foot from East Lake Drive; that he was granted a variance for the manufactured home; and that he feels his neighbors will support 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 uniqueness of the lot.** Vote carried 5 – 0.

**Case No. 8869 – James Lounsbury and Diana Clancy** – northeast of North Bay Shore Drive, southwest of A Avenue, being Lot 8, Block B, Section 2 within North Shores Development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Harry Wooding was sworn in and testified requesting an 8-foot variance from the 10-foot side yard setback requirement for a proposed screen porch; that the proposed screen porch will measure 8' x 12'; that due to the existing bay windows and 2 front doors the porch cannot be built on the front of the dwelling; that a second floor balcony is also on the front of the dwelling; that the neighbors are in support of the application; and that there have been numerous variances granted in the area.

The Board found that no parties appeared in support of or 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.** Vote carried 5 – 0.



## **OLD BUSINESS**

**Case No. 8766 – Thomas B. Walsh** – 450 feet south of Road 361-A, 100 feet east of Ocean Pines Lane, being Lot 10 within George M. Coleman Development.

A variance from the front yard setback requirement.

Minutes  
November 22, 2004  
Page 9

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

Mr. Rickard stated that the Applicant had a surveyor determine an average front yard setback for the street and a 25-foot front yard setback was determined.

The Applicant's request is within the determined front yard setback requirement therefore making the request unnecessary.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variance be **denied since the request is unnecessary**. Vote carried 5 – 0.

**Meeting Adjourned 9:22 p.m.**