

MINUTES OF JUNE 21, 2010

The regular meeting of the Sussex County Board of Adjustment was held on Monday June 21, 2010, 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. Dale Callaway, Mr. Ronald McCabe, Mr. John Mills, Mr. Brent Workman and Mr. Jeff Hudson, with Mr. Richard Berl – Assistant County Attorney and staff members, Mrs. Susan Isaacs, Chief Zoning Inspector and Mrs. Kelly Passwaters – 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 table the Minutes of the June 7, 2010 meeting. 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. 10634 – Philadelphia Pentecostal Holiness Church- west of Road 213, across from Pentecostal Street.

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

Mrs. Isaacs presented the case. Bishop Major Foster was sworn in and testified requesting a 3,659-square foot variance from the required minimum 10,000-square foot requirement for a parcel, a 4.51-foot variance from the minimum 75-foot lot width requirement for a parcel, a 10.05-foot variance from the minimum 100-foot lot depth requirement for a parcel, a 8.9-foot variance from the required 10-side yard setback requirement, and a 10-foot variance from the required 10-foot side yard setback requirement; that he would like to create two (2) lots with access from a 50-foot easement; and that he received conceptual approval from the Planning & Zoning Commission.

The Board found that 6 parties appeared in support of the application.

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

Motion by Mt. Workman, seconded by Mr. Mills, and carried unanimously that the case be taken under advisement. Vote carried 5 – 0.

Motion by Mr. Workman, seconded by Mr. Mills, and carried unanimously that the case be **tabled until the July 12, 2010 meeting**. Vote carried 5 – 0.

Case No. 10635 – Sue Scrapper- south of Route 54, east of Wilson Avenue, being Lot 3, Block 3 within Cape Windsor development.

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

Mrs. Isaacs presented the case. Ralph Picard was sworn in and testified on behalf of the applicant requesting a 3.7-foot variance from the required 5-foot front yard setback requirement for a 2nd floor porch, a 8.2-foot variance from the required 20-foot rear yard setback requirement for a 3rd story deck with steps, and a 5-foot variance from the required 10-foot side yard setback requirement on the north side for a proposed dwelling; that the property owner would like to replace the existing home with a 3-story home; that the home will have 1st, 2nd, and 3rd floor decks/porches; and that not being able to replace the home would lower the resale price of the property.

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

Mrs. Isaacs stated the office received 1 letter in favor of the application.

Motion by Mr. McCabe, seconded by Mr. Hudson, and carried unanimously that the variances be **granted since it will not alter the essential character of the neighborhood and since several variances have been granted in the area**. Vote carried 5 – 0.

Revised July 21, 2010

Case No. 10636 – Martin Fischer- west of Road 348, west of Grand Pavilion Circle, being Lot 20 within The Preserve At Irons Landing.

A variance from the minimum lot width requirement.

Mrs. Isaacs presented the case. Martin Fischer was sworn in and testified requesting a 4.51-foot variance from the required 60-foot lot width requirement for a parcel; that the property was sold at auction; that he is adjusting the property; that the driveway encroaches on the neighbor's property; and that the parcel is unique in shape.

The Board found that 1 party appeared in favor of the application.

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

Case No. 10637 – Norman J. Wilfong- southeast of Road 210, 550 feet northeast of Road 209, being Lot 5.

A variance from the minimum lot width requirement.

Mrs. Isaacs presented the case. Norman Wilfong was sworn in and testified requesting a 4.46-foot variance from the required 150-foot lot width requirement; that he would like to subdivide the parcel for his son to construct a new home; and that the parcel was once two (2) separate parcels but has since been combined.

The Board found that 1 party appeared in support of the application.

The Board found that no parties appeared 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 essential character of the neighborhood, and since it is the minimum variance to afford relief.** Vote carried 5 – 0.

Case No. 10638 – Michael and Cheryl Tirrell- south of Road 338, 1,300 feet west of Road 82.

A special use exception for a tent to exceed the maximum 3 day requirement and a special use exception for this event to be annually for five (5) years.

Mrs. Isaacs presented the case. Michael and Cheryl Tirrell were sworn in and testified requesting a special use exception for a tent to exceed the maximum 3 day requirement and a special use exception for this event to be annually for five (5) years; that the tent will be used for a outdoor revival; that the revival will be held on July 26, 2010 through July 31, 2010; that it will be from 7:00 P.M. to 10:00 P.M.; that the parking will be located on the property; that there will be self contained bathrooms available; that it will host approximately 100 to 150 people per night; that the revival will be heard the last week of July each year; and that they have previously received approval.

The Board found that 11 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 special use exceptions be **granted for a period of 5 years since it will not substantially affect adversely the uses of adjacent and neighboring properties, and that the applicant notifies the Planning & Zoning Office of the dates each year.** Vote carried 5 – 0.

Case No. 10639 – Summer N. Morse- south of Road 244, 1,550 feet west of Road 246.

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

Mrs. Isaacs presented the case. Summer Morse was sworn in and testified requesting a special use exception to place a manufactured home on a medical hardship basis; that the manufactured home is a 1986; that it measures 14' x 70'; that it will be relocated from Pot Nets; that Mr. Conaway has had some health issues that require care and Mrs. Conaway does not drive; that their grandson will be helping out with the daily operations of the farm; and that her daughter and the property owners grandson will occupy the manufactured home.

Mr. Mills stated that he will refrain from participating since there may be a conflict of interest as one of the members of opposition is employed by the same company where Mr. Mills works.

Bruce Conaway was sworn in and testified in opposition to the application and stated that a medical hardship does not exist; that the application states that she is a granddaughter and Ms. Morse is not related to his parents; and that she is requesting to place it on his parents land.

Charles Conaway was sworn in and testified in opposition to the application and stated that a medical hardship does not exist at this time; that there are six (6) people that live on or adjacent to the property that can take care of his parents if needed; that his nephew has been in trouble with the law; that his father does not want the special use exception granted; and that the chicken house on the property is not being used at this time.

Lori Hudson was sworn in and testified in opposition to the application and stated that she is there daughter; that she is looking out for the best interest of her parents; that her nephew has been in trouble with the law; and that her daughter and son live on the property with her parents.

Ruth Ann Mikus was sworn in on behalf of her mother Anna Mikus and stated that Mr. Conaway plows her farm; that she wants to know where the home and septic system would be located; that she has safety concerns; and that she has owned the property since 1968.

Daniel Conaway was sworn in and testified in opposition to the application and stated that he lives approximately 1 mile away; that the medical hardship is not needed; and that his grandfather is always out on the farm doing work.

Rebecca Donovan McKenzie was sworn in and testified in opposition to the application and stated that she lives adjacent to Mr. & Mrs. Conaway's property; that she also has safety concerns; and that she has concerns with the location of the septic system.

Jason Powell was sworn in and testified in opposition to the application and stated that he lives in a manufactured home on the property; and that the manufactured home has been on the farm since 1983.

In Rebuttal, Ms. Morse stated that the family is not there on a daily basis; and that the family does not help with their medical care.

The Board found that 4 parties appeared in favor of the application.

The Board found that 13 parties appeared in opposition to the application.

Motion by Mr. Hudson, seconded by Mr. McCabe, and carried 4-0 that the case be **tabled until July 12, 2010**. Mr. abstained from voting.

Case No. 10640 – Steven B. Altmann- south of Road 313 (Layton Davis Road), south of Warwick Cove Way, being Unit 1 within Warwick Cove.

A variance from the side yard setback requirement.

Mrs. Isaacs presented the case. Steven Altmann and Michael McDowell were sworn in and testified requesting a 3.8-foot variance from the required 15-foot side yard setback requirement for a deck addition; that the property was purchased in 2009; that the applicant would like to extend the deck to make it usable with the spiral stairs; that the deck will be cantilevered; and that the deck extension has not yet been constructed.

The Board found that 1 party appeared in support of the application.

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

Mrs. Isaacs stated the office received 1 letter in favor of the application.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variance be **granted since it is unique, since it will not alter the essential character of the neighborhood, and since it is the minimum variance to afford relief**. Vote carried 5 – 0.

Case No. 10641 – Jeanne M. Flint- north of Road 283, north of Beech Drive, being Lot 5, Block L, Addition 1 within Sandy Brae development.

A variance from the side yard setback requirement.

Mrs. Isaacs presented the case. Jeanne Flint was sworn in along with Daniel Myers, Attorney, and testified requesting a 0.2-foot variance from the required 10-foot side yard setback requirement and a 1.2-foot variance from the required 10-foot side yard setback requirement; that the home was constructed in 1980; that the house cannot be moved into compliance; and that the applicant purchased the home in April 2010.

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

Mrs. Isaacs stated the office received 3 letters in favor of the application.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the variances be **granted since it meets the standards for granting a variance**. Vote carried 5 – 0.

OTHER BUSINESS

Case No. 10626 – Janet V. and Edward P. Nichols- southwest of Road 602, 1,472 feet west of Old County Road, being Lot 1.

A special use exception to place a multi-sectional manufactured home more than five (5) years old.

The Board discussed the case, which has been tabled since June 7, 2010.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the special use exception be **granted since it will not substantially affect adversely the uses of adjacent and neighboring properties**. Vote carried 5 – 0.

Case No. 10631 – Hertrich Properties V, LLC- southwest intersection of Road 485 and U.S. Route 13.

A special use exception to replace billboards, a variance from the maximum allowable square footage for a billboard, and a variance from the setback requirement from a dwelling, church, school, public lands or another sign.

The Board discussed the case, which has been tabled since June 7, 2010.

Motion by Mr. Workman, seconded by Mr. Mills, and carried unanimously that the case be **tabled until July 19, 2010**. Vote carried 5 – 0.

OTHER BUSINESS

Case No. 10361 – Mountaire Farms, Inc. - south of Route 24.

A special use exception for a resource recovery plant.

Request for a time extension.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the request for a time extension be **granted for a period of 1 year**. Vote carried 5 – 0.

Case No. 10434 – Flexera, Inc. - east of Route 16, east of South Bayshore Drive, being Lot 31 and ½ of Lot 30, Block A, Section 2 within Old Inlet Beach.

A special use exception to place a windmill and a variance from the side yard setback requirement.

Discussion.

Mr. Berl provided the Board members with correspondence in reference to the above case and was they discussed the correspondence.

Meeting adjourned at 9:00 P.M.