



# BOARD OF ADJUSTMENT

## AGENDAS & MINUTES

### MINUTES OF APRIL 19, 2010

The regular meeting of the Sussex County Board of Adjustment was held on Monday April 19, 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. Jennifer Norwood, Inspector and Mrs. Kelly Passwaters – Recording Secretary.

Motion by Mr. McCabe, seconded by Mr. Hudson, and carried unanimously to approve the Revised Agenda as circulated with the correction to move the Old Business to the front of the Agenda. Vote carried 5 – 0.

Motion by Mr. McCabe, seconded by Mr. Hudson, and carried unanimously to table the Minutes of the April 5, 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.

### OLD BUSINESS

**Case No. 10018 – John DelRossi-** east of Route 22, east of Berry Street, being Lot 3 within Bay City Mobile Home Park.

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

ALSO REQUESTING A REHEARING

The Board discussed the case, which has been tabled since December 17, 2007.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be **tabled**. Vote carried 5 – 0.

**Case No. 10551 - John DelRossi-** east of Route 22, east of Berry Street, being Lot 3 within Bay City Mobile Home Park.

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

ALSO REQUESTING A REHEARING.

The Board discussed the case, which has been tabled since January 4, 2010.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be **tabled**. Vote carried 5 – 0.

**Case No 10039 – David and Susan Lilley-** west of Route 22, east of Walnut Street, being Lot 36 within Bay City Mobile Home Park.

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

The Board discussed the case, which has been tabled since January 28, 2008.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be **tabled**. Vote carried 5 – 0.

### **PUBLIC HEARINGS**

**Case No. 10594 – Rob Robertson-** east of Road 271, northeast of Trent Court, being Lot 290 within Canal Point development.

A variance from the side yard setback requirement.

Mrs. Norwood presented the case. Matthew Dotterer was sworn in and testified requesting a 7.5-foot variance from the required 10-foot side yard setback requirement for a screen porch and a 0.06-foot variance from the required 5-foot side yard setback requirement for an open deck; that the applicant would like to construct a screen porch and deck; that there will be a 3-foot walkway to the screen porch; and that the property is adjacent to a storm water management pond.

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 essential character of the neighborhood, and since there was no opposition**. Vote carried 5 – 0.

**Case No. 10595 – George and Sharon Miles-** southwest of Route 54, northeast of Grant Avenue, being Lot 28, Block 6 within Cape Windsor development.

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

Mrs. Norwood presented the case. Sharon Miles was sworn in and testified requesting a 7.5-foot variance from the required 10-foot side yard setback requirement and a 5.5-foot variance from the required 20-foot side yard setback requirement for an enclosed deck; that the variance is needed for a platform for the HVAC unit; that the 2<sup>nd</sup>

floor deck is covered and encroaches into the setback; and that other homes in the area have received variances.

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 essential character of the neighborhood, since it is a small lot, and since many similar variances have been granted in the area.** Vote carried 5 – 0.

**Case No. 10596 – Howard L. and Carol Nelson-** east of Road 271, east of Worcester Drive, being Lot 12 within Canal Point development.

A variance from the rear yard setback requirement.

Mrs. Norwood presented the case. Richard Blitz was sworn in and testified requesting a 4-foot variance from the required 10-foot rear yard setback requirement; that the applicant would like to construct a screen porch and sun deck; that the lot is small; that the porch will measure 12' x 17'; that the sun deck will measure 12' x 12'; that he has constructed other screen porches in the same development; and that the lot backs up to wetlands.

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 is the minimum variance to afford relief and since it will not alter the essential character of the neighborhood.** Vote carried 5 – 0.

**Case No. 10597 – Mark Frankton-** east of Road 279, southeast of Road 277, south of Dogwood Drive, being Lot K-149 within West Bay Mobile Home Park.

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

Mrs. Norwood presented the case. Mark Frankton was sworn in and testified requesting a 10-inch variance from the required 5-foot side yard setback requirement and a 3-foot variance from the required 20-foot separation requirement between units; that he

would like to construct a 6' x 12' addition; that he received an approval letter from the mobile home park; and that it will not alter the essential character of the neighborhood.

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 is the minimum variance to afford relief, since it is a unique lot size, and since it enables reasonable use of the property.** Vote carried 5 – 0.

**Case No. 10598 – Frederick W. Kling-** south of Route 22, north of Salt Marsh Loop, being Lot 253 within White House Beach Mobile Home Park.

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

Mrs. Norwood presented the case. Ted Spengos was sworn in and testified on behalf of the applicant requesting a 2.5-foot variance from the required 5-foot rear yard setback requirement for a shed; that the electric pole on the lot has been moved and the variance for separation is not needed; that the applicant would like to replace the existing manufactured home; and that the steps will meet the setback requirements.

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 essential character of the neighborhood, and since it is the minimum variance to afford relief.** Vote carried 5 – 0.

**Case No. 10599 – Mr. and Mrs. John Duffy-** north of Fifth Street, 120 feet northeast of Pennsylvania Avenue, being Lot 8.

A variance from the side yard setback requirement.

Mrs. Norwood presented the case. Timothy Tribbith was sworn in and testified on behalf of the applicant requesting a 1.9-foot variance from the required 5-foot side yard setback requirement for an accessory structure; that the accessory structure measures 12' x 10'; that it does not block any views; that there is a fence on the property; that the applicant has enhanced the property with landscaping; and that the applicant received a variance in 2003 for the porch and detached garage located on the west side.

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

Mrs. Norwood stated the office received 1 letter in support of the application.

Mrs. Norwood stated the office received 1 letter 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, since there is a fence separating the adjoining lot, and since it is a lesser variance than what was approved in 2003.** Vote carried 5 – 0.

**Case No. 10600 – Alice H. Sturgis-** north of Route 24, 1,290 feet west of Randall Street, being Lot 1 within H.H. Dickerson Lands.

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

Mrs. Norwood presented the case. Bob Nash was sworn in and testified on behalf of the applicant requesting a 12,901-square foot variance from the required 32,670-square foot requirement for a parcel, a 49.77-foot variance from the required 150-foot lot width requirement for a parcel, a 1,512-foot variance from the required 32,670-square foot requirement for a parcel and a 79.75-foot variance from the required 150-foot lot width requirement for a parcel; that the applicant went to the Planning & Zoning Commission to get the lots reconfigured; that the pole shed is too close to the property line; that it would cost too much to move the shed; that the lots do not meet the road frontage requirement; that they were combined several years ago; and that they have received approval from Del-Dot.

Andie Atkins was sworn in and testified in opposition to the application and stated that she does not want to see manufactured homes placed on the property.

In Rebuttal, Mr. Nash stated that the remaining land is intended to be sold.

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

The Board found that 1 party appeared in opposition to the application.

Motion by Mr. Hudson, seconded by Mr. Mills, and carried unanimously that the variances be **granted with the stipulation that no manufactured homes be placed on the property and 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. 10601 – Paul J. and Carroll F. Harriott-** southwest of Route One, north of Red Mill Drive, being A-6 and part of A-5 within Mill Pond Acres development.

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

Mrs. Norwood presented the case. Paul Harriott was sworn in and testified requesting a 4.9-foot variance from the required 30-foot front yard setback requirement for a proposed garage and a 1.9-foot variance from the required 15-foot side yard setback requirement for an existing dwelling; that he purchased the property in September 2009;

that he would like to add a 2<sup>nd</sup> floor to the dwelling; that the neighbors do not object; and that the front yard setback variance is not longer needed.

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

Mrs. Norwood stated the office received 1 letter 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 essential character of the neighborhood**. Vote carried 5 – 0.

**Case No. 10602 – Country Rest Home, Inc. -** south of Route 16, 375 feet east of Road 585.

A variance from the front yard, side yard and rear yard setback requirements, and a variance from the minimum square footage requirement for a parcel.

Mrs. Norwood presented the case. Mark Yoder, Jr. was sworn in and testified requesting a 24.8-foot variance from the required 40-foot front yard setback requirement for a proposed dwelling, a 12.8-foot variance from the required 20-foot rear yard setback requirement for a proposed dwelling on parcel 25.00, a 7.8-foot variance from the required 15-foot side yard setback requirement for an existing dwelling on parcel 25.01, and a 10,890-square foot variance from the required 32,670-square foot requirement for a parcel; that he had originally received verbal approval from the Building Code department to tear the existing dwelling down; that when a survey was done he realized there were property line issues and that he needed a variance; that the existing dwelling will be razed and the basement will be retained; and that it will be very close to the same footprint.

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 **left open only for clarification on the variances that are needed**. Vote carried 5 – 0.

**Case No. 10603 – James and Bonnie Catinella-** west of Route One, east of Siham Drive, being Lot E-43 within Whispering Pines Mobile Home Park.

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

Mrs. Norwood presented the case. James Catinella was sworn in and testified requesting a 6-foot variance from the required 20-foot separation requirement between units in a mobile home park and a 2-foot variance from the required 20-foot separation requirement between units in a mobile home park; that he purchased the home in October 2009; that he hired a contractor to cover the existing porch with a roof; that the contractor obtained a building permit; and that due to his wife being handicapped it is needed for easy access.

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 is unique, since it will not alter the essential character of the neighborhood, since it is a minimum variance to afford relief, and that a letter be sent to the contractor.** Vote carried 5 – 0.

**Case No. 10604 – 26 Centre LLC-** northeast of Road 334.

A special use exception to place a billboard and a variance from the maximum allowable square footage of a billboard, variance from the maximum height requirement, variance from setback requirement from dwelling, church, school, public lands or another sign, and a variance from the front and side yard setback requirements.

Mrs. Norwood presented the case. Andrew Timmons was sworn in and testified requesting a special use exception to place two (2) billboards, a 552-square foot variance from the required 600-square foot requirement for a billboard, a 5-foot variance from the required 25-foot maximum height requirement for a sign, and a 57.1-foot variance from the required 300-foot from a dwelling, church, school, public lands or another sign; that Billboard “A” will be double sided; that it will measure 12’ x 48’; that it will be lighted; that Billboard “B” will be doubled sided and doubled stacked; that it will measure 10’ x 30’; that it will be lighted; that the neighboring properties are zoned C1; that the parcel is vacant; that the parcel has been up for lease for two (2) years; that there is only a 20% cost difference between two (2) boards and four (4) boards; and that no front yard setback variance is needed.

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 special use exception and variances be **granted since it will not alter the essential**

**character of the neighborhood, and since it enables reasonable use of the property.**

Vote carried 5 – 0.

**Case No. 10605 – Bruce Stoehr-** southwest of Route 54, south of Wilson Avenue, being Lot 15, Block 3 within Cape Windsor development.

A variance from the side yard setback requirement.

Mrs. Norwood presented the case. Bruce Stoehr was sworn in and testified on behalf of the applicant requesting a 8-foot variance from the required 10-foot side yard setback requirement for HVAC units, manufactured home and deck and a 5-foot variance from the required 10-foot side yard setback requirement for a bump out and 2<sup>nd</sup> floor deck; that the applicant would like to construct a 2-story home; that the bump out is located at the 2<sup>nd</sup> floor level; that there will be two (2) HVAC units; that the lot is narrow; that the neighborhood was originally created for singlewide homes; and that other variances have been granted in the area.

David Schivone was sworn in and testified in opposition stating that he owns that property next door; and that he wants to be able to have enough room to construct his house.

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

The Board found that 1 party appeared in opposition to the application.

The motion died due to a lack of second and that case was **tabled until the May 3, 2010 meeting.**

**Meeting adjourned at 8:40 P.M.**