



# BOARD OF ADJUSTMENT

## AGENDAS & MINUTES

### MINUTES OF APRIL 6, 2009

The regular meeting of the Sussex County Board of Adjustment was held on Monday April 6, 2009, 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, Mr. Dean Malloy and Mrs. Kelly Passwaters – Recording Secretary.

Motion by Mr. McCabe, seconded by Mr. Mills, 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 approve the Minutes of March 16, 2009 meeting 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. 10369 – Greig Stewart and James Hudson-** east of Route One, south of Terrace Road, being Lots 16 and 17, Block C within Silver Lake Manor development.

A variance from the front yard setback requirement.

Mrs. Norwood presented the case. Greig Stewart was sworn in and testified requesting a 3.8-foot variance from the required 30-foot front yard setback requirement; that the property is L-shaped; that the existing dwelling that was built in 1972 is in violation; that he has owned the property since 1999; that the proposed addition and porch will not extend any further into the setback than the existing home; and that he has already received a variance approval for the garage.

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 the addition and porch will not extend any further into setbacks than the existing home, and since it will not alter the essential character of the neighborhood.** Vote carried 5 – 0.

**Case No. 10370 – Jonathan Hearn-** north of Road 544, 1,680 feet west of Conrail Road.

A variance from the side yard setback requirement.

Mrs. Norwood presented the case. Jonathan Hearn was sworn in and testified on behalf of Jonathan Hearn requesting a 10-foot variance from the required 15-foot side yard setback requirement for an accessory structure over 600-square feet; that the property owner would like to construct a garage for storage purposes; and that he does not want to disturb the existing sidewalks.

The Board found that 2 parties appeared in support of the application.

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

Motion by Mr. Workman, seconded by Mr. McCabe, and carried unanimously that the variance be **granted since it will not alter the essential character of the neighborhood, since it is the minimum variance to afford relief, and since no parties appeared in objection.** Vote carried 5 – 0.

**Case No. 10371 – Decoy, Inc.-** east of Route One, east of Bunting Avenue, being Lot 3, Section A.

A variance from the side yard setback requirement.

Mrs. Norwood presented the case. Mark Dieste was sworn in and testified requesting a 5-foot variance from the required 10-foot side yard setback requirement for a second floor deck; that he was hired to do the repair work on the duplex; that the second floor deck will be located above the outside shower; and that they were approved for a variance in 1994 but the deck was never built.

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 encroach any further than the existing outside shower located on the first floor and since it meets the standards for granting a variance.** Vote carried 5 – 0.

**Case No. 10372 – Patrick J. Shields-** south of Road 358, east of Holly Terrace, being Lot 14 within Holly Ridge Terrace development.

A variance from the side yard setback requirement.

Mrs. Norwood presented the case. Patrick Shields was sworn in and testified requesting a 0.85-foot variance from the required 10-foot side yard setback requirement; that the variance approval in 2008 did not include the cantilevered window; and that the cantilevered window is a handicap seat located in the master bathroom.

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 taken under advisement. Vote carried 5 – 0.

At the conclusion of the public hearings, the Chairman referred back to this case. Motion by Mr. McCabe, seconded by Mr. Hudson, and carried unanimously that the variance be **granted.** Vote carried 5 – 0.

**Case No. 10373 – Jonathan A. Whitt-** north of Route 20 (Concord Road), .09 miles east of U.S. Route 13.

A variance from the maximum height requirement for a fence.

Mrs. Norwood presented the case. Jonathan Whitt was sworn in and testified requesting a 2.5-foot variance from the required 3.5-foot height requirement for a fence for the front yard and side yard; that he has owned the property for 5 years; that his neighbors do not object to the height of the fence; that he receives a lot of trespassers on the property; and that headlights from vehicles across the street shine right in the front window of his house.

The Board found that 5 parties appeared in support of the application.

Mrs. Norwood stated the office received 2 letters 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**. Vote carried 5 – 0.

**Case No. 10374 – Richard and Carole Janney-** west of Road 349, south of Mill Run Drive, being Lots 22 and 23 within Mill Run Acres development.

A variance from the front yard setback requirement.

Mrs. Norwood presented the case. Richard Janney was sworn in and testified requesting a 10-foot variance from the required 30-foot front yard setback requirement for a shed; that he placed a 10' x 16' shed; that the house is located on pilings; that there are wetlands located behind the shed; that he combined two lots in order to place the shed; that he assumed the property line began at the street; that the shed is in line with the house; that the shed cannot be moved any further back; and that the lot the shed is sitting on is unbuildable.

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

Mrs. Norwood stated the office 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. Workman, and carried unanimously that the variance be **granted since it meets the standards for granting a variance**. Vote carried 5 – 0.

**Case No.10375 – John Aranowicz-** south of Route 54, south of Roosevelt Avenue, being Lot 22 within Cape Windsor development.

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

Mrs. Norwood presented the case. Cheryl Fossey was sworn in and testified requesting a 5-foot variance from the required 10-foot side yard setback requirement and a 10-foot variance from the required 20-foot rear yard setback requirement; that the lot is vacant; and that they would like to construct a new home in the same footprint as the previous home.

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 variances be **granted since there have been many variances in the area, since it is a small lot and since it will not alter the essential character of the neighborhood.** Vote carried 5 – 0.

**Case No. 10376 – Bruce and Diane Georgov-** northeast of North Bayshore Dive, southeast of West Virginia Avenue, being Lot 10 within Broadkill Beach development.

A variance from the side yard setback requirement.

Mrs. Norwood presented the case. Diane Georgov was sworn in and testified requesting a 5-foot variance from the required 10-foot side yard setback requirement for steps to the second floor; that the house is on pilings; that the lot measures 50' x 100'; and that they received a variance approval in January 2009 but it did not include the steps.

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 meets the standards for granting a variance.** Vote carried 5 – 0.

**Case No. 10377 – Deborah L. Whaley and Donald Lankford-** northwest of Road 493, 4.375 feet northeast of Road 494.

A variance from the maximum age requirement for placement of a manufactured home.

Mrs. Norwood presented the case. Deborah Whaley and Donald Lankford were sworn in and testified requesting a variance from the maximum age requirement for placement of a manufactured home; that the lot was sub-divided off the family farm; that the doublewide is a 2002; that it measures 28' x 64'; and that it will be placed on a block foundation.

The Board found that 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 variance be **granted since it will not alter the essential character of the neighborhood.** Vote carried 5 – 0.

### **OLD BUSINESS**

#### **Case No. 10330 – Big Debs LLC-** south of Route 9, being Lots 2 and 3.

A variance for an additional wall sign and a variance from the maximum square footage requirement for a sign.

The Board discussed the case, which has been tabled since January 5, 2009.

Due to a lack of motion by the Board members, the case will be scheduled for May 4, 2009 for further consideration.

#### **Case No. 10343 – Ryan Homes-** east of Route 5 and north of Route 23, being Parcel A.

A special use exception for an off-premise sign and a variance from the setback requirements.

The Board discussed the case, which has been tabled since February 23, 2009.

Motion by Mr. Hudson, seconded by Mr. Mills, and carried unanimously that the special use exception be **granted for a period of 2 years since it will not substantially affect adversely the uses of adjacent and neighboring properties.** Vote carried 5 – 0.

#### **Case No. 10344 – Ryan Homes-** west of Route 24, 560 feet north of Road 299, being Lots 12 and 14.

A special use exception for an off-premise sign and a variance from the setback requirements.

The Board discussed the case, which has been tabled since February 23, 2009.

Motion by Mr. Mills, seconded by Mr. Workman and carried unanimously that the special use exception and variances be **denied since it does not meet the standards**

**for granting a variance and since it will affect adjacent and neighboring properties.**  
Vote carried 5 – 0.

**Case No. 10358 – Ira Paul Riale-** west of Road 261, south of Vincent Avenue, being Lot 31 within Carsyljan Acres development.

A variance from the front yard setback requirement.

The Board discussed the case, which has been tabled since March 16, 2009.

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

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

A special use exception for a resource recovery plant.

The Board discussed the case, which has been tabled since March 16, 2009.

Motion by Mr. McCabe, seconded by Mr. Workman, and carried unanimously that the case be **tabled until May 4, 2009.** Vote carried 5 – 0.

**Case No. 10363 – Terry Walls-** Route 54, west of Swann Drive, being Lot 10, Block A within Swann Keys development.

A variance from the side yard setback requirement.

The Board discussed the case, which has been tabled since March 16, 2009.

Motion by Mr. McCabe, seconded by Mr. Workman, and carried unanimously that the variance be **granted since it is a small lot, since it will not alter the essential character of the neighborhood and since many variance have been granted in the area.** Vote carried 5 – 0.

**Case No. 10365 – Donald E. Hitchens, Jr.-** south of Donald Drive, west intersection with Road 309.

A variance from the front yard setback requirement.

The Board discussed the case, which has been tabled since March 16, 2009.

Motion by Mr. Hudson, seconded by Mr. McCabe, and carried unanimously that the variance be **granted since it enables reasonable use of the property, 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. 10367 – Harold C. and Richard H. Dodd-** east of Route One, southeast intersection of Fisher Street and Robinson Drive, being Lot 26, Block F within Dodd's Addition development.

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

The Board discussed the case, which has been tabled since March 16, 2009.

Motion by Mr. McCabe, seconded by Mr. Workman, and carried unanimously that the variances be **granted since it is an odd shaped lot, 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. 10235 – Sea Air Village-** south of Route Once, west of Golden Avenue, being Lot M-62 within Sea Air Mobile City Mobile Home Park.

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

The Board discussed the case, which has been tabled since September 8, 2008.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variance be **denied as unnecessary.** Vote carried 5 – 0.

**Meeting Adjourned at 8:45 P.M.**

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