



# BOARD OF ADJUSTMENT

## AGENDAS & MINUTES

### MINUTES OF APRIL 7, 2008

The regular meeting of the Sussex County Board of Adjustment was held on Monday April 7, 2008, 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, Mr. Norman Rickard, Mr. Russell Warrington and Mrs. Kelly Passwaters – Recording Secretary.

Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously to approve the Revised Agenda. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of March 17, 2008 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. 10095 – Delaware Coastal Businesses LLC-** south of Route One, 634 feet north of Road 283.

A variance from the maximum square footage requirement for a sign.

Mr. Rickard presented the case. Pat Quillen was sworn in and testified requesting a 150-square foot variance per side for a ground sign; that currently there are two (2) signs on the property; that the property owner would like to have one (1) sign that measures 300-square feet on each side; that the sign will have a LED read out; and that the stores will not be seen from the road since the shopping center will be built perpendicular.

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. Mills, seconded by Mr. McCabe, and carried unanimously that the variance be **granted since it meets the standards for granting a variance and that the LED portion of the sign only show time and temperature.** Vote carried 5 – 0.

**Case No. 10096 – Michael J. Axe-** south of Beach Avenue, 800 feet east of Route One, being Lot 27 within North Indian Beach development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Michael Axe was sworn in along with James Fuqua, Attorney, present on behalf of the applicant and stated the Mr. Axe purchased the property in 2004; that he would like to install a elevator and extend the deck; that it would be the most functional location; that the beach is located to the east; that the location of the elevator will not block the neighbors view to the west; that other variances have been granted in the area; and that it is a unique shaped lot.

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 essential character of the neighborhood, since it is a unique shaped lot and since there was no opposition.** Vote carried 5 – 0.

**Case No. 10097 – Joseph and Andrea Kokoszka-** Road 274, southwest of Arnell Road, being Lot 50 within Old Landing development.

A variance from the rear yard setback requirement.

Mr. Rickard presented the case. Joseph Kokoszka was sworn in and testified requesting a 11.7-foot variance from the required 20-foot rear yard setback requirement; that he purchased the property in 2004; that he started building one (1) year ago; that it is a unique shaped lot; that he owns the adjacent lot; and that he built the deck himself.

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

Mr. Rickard stated the office received 2 letters 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 his case. Motion by Mr. McCabe, seconded by Mr. Workman, and carried unanimously that the case be **tabled until the April 21, 2008 meeting**. Vote carried 5 – 0.

**Case No. 10098 – Robert M. Wanuga and Barbara A. Watunya-** southwest of Road 279, being Lot 50 within Old Landing development.

A variance from the rear yard setback requirement.

Mr. Rickard presented the case. Allen Jarmon was sworn in and testified requesting a 1.5-foot variance from the required 20-foot rear yard setback requirement; that the encroachment has existed since 1989; and that the certificate of occupancy was issued in 1989.

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**. Vote carried 5 – 0.

**Case No. 10099 – Patrick Shields-** south of Road 358, east of Holly Terrace, being Lot 14 within Holly Ridge Terrace development.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Colleen Shields, Attorney, present on behalf of the applicant testified requesting a 0-foot variance from the required 30-foot front yard setback requirement for a proposed dwelling; that her parents have owned the property since 1976; that the doublewide currently on the property encroaches into the right-of-way; and that they would like to remove the existing manufactured home and construct a new dwelling.

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 is an improvement to the property and since it will not alter the essential character of the neighborhood**. Vote carried 5 – 0.

**Case No. 10100 – Tapa Homes LLC-** southwest of Route 54, east of Grant Avenue, being Lot 23 within Cape Windsor development.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Brett Reilly was sworn in and testified requesting a 4.8-foot variance from the required 5-foot front yard setback requirement; that they

were granted a variance for the side yard and rear yard setback variance on March 17, 2008; that they would like to place a cantilevered porch; and that it measures 18' 8" x 5'.

William Raither was sworn in and testified in opposition and stated that he would like clarification on how far the porch will encroach into the setback; that he questions if it will be structurally supported; that he questioned if it is a true cantilevered porch; and that if so it he will have no opposition to the application.

In Rebuttal, Brett Reilly, stated that the porch will have no supports; that it is a Beracah home; and that the porch will extend 5-feet from the structure.

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. Workman and 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 since it will not alter the essential character of the neighborhood and since other variance have been granted.** Vote carried 5 – 0

**Case No. 10101 – Franklin Bennett –** south of Route 26, 1,259 feet east of Route 17, being Lot 2.

A special use exception to place a billboard and a variance from the setback requirements and height requirement for a billboard.

Mr. Rickard presented the case. Franklin Bennett was sworn in and testified requesting a 174.9-foot variance from the required 300-foot setback requirement from an existing billboard, a 194.3-foot variance from the required 300-foot setback requirement from an existing billboard and a 10-foot variance from the required 25-foot maximum height requirement; that he purchased the property in 1995; that he plans to demolish the unoccupied dwelling on the property; that there are two (2) billboards on the north side of the highway; that he would like his billboard to be as high as possible; that it will

measure 12' x 24'; and that he would like to place a road to access the back of the property.

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. Workman and carried unanimously that the variance be **granted since it will not substantially affect adversely the uses of adjacent and neighboring properties and since other variances have been granted in the area.** Vote carried 5 – 0.

**Case No. 10102 – Ray and Dorothy Beauregard** – east of Route 16, northeast of Bayshore Drive, being Lot 37, Block A within Old Inlet Beach Section 2.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Ray and Dorothy Beauregard were sworn in along with David Hutt, Attorney, and testified requesting a 0.8-foot variance from the required 10-foot side yard setback requirement, a 0.7-foot variance from the required 7-foot side yard setback requirement for a HVAC unit and a 8.7-foot variance from the required 15-foot side yard setback requirement for steps to the seconded floor; that they purchased the property in 1971; that the home was built on pilings in 1974; that they started renovations in 2006; that the contractor didn't finish the work; that there is no home on the north side of the property; and that other variances have been granted in the area.

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

**Case No. 10103 – Oscar R. and Charlotte Duron**- east of Route 16, 1,950 feet southeast of Road 588.

A variance from the side yard and rear yard setback requirements for a poultry and manure shed.

Mr. Rickard presented the case. Lester Troyer was sworn in and testified requesting a 35-foot variance from the required 50-foot side yard setback requirement, a 25-foot variance from the required 50-foot side yard setback requirement for a manure shed and a 25-foot variance from the required 50-foot rear yard setback requirement for a manure shed; that they would like to construct a building to use as a manure shed; and that they have obtained a building permit.

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 that 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 it enables reasonable use of the property.** Vote carried 5 –0.

**Case No. 10104 – William B. Shimmel** – north of Route 22, corner of Caddies Dell and Creek Way, being Lot 3330 within Baywood Mobile Home Park.

A variance from the rear yard setback requirement, a variance from the separation requirement between units in a mobile home park and a variance from the maximum allowable lot coverage in a mobile home park.

Mr. Rickard presented the case. Robert Shaefelter was sworn in and testified requesting a 4.4-foot variance from the required 10-foot setback in a mobile home park for an enclosed deck, a 75.90-square foot variance from the required 35% lot coverage requirement and a 6-foot variance from the required 20-foot requirement between units in a mobile home park; that they would like to construct a screen porch; and that it will measure 12' x 16'.

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 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. Mills, and carried unanimously that the case be **tabled until the April 21, 2008 meeting.** Vote carried 5 – 0.

**Case No. 10105 – The Council of the Breakers Condominium-** east of Route One, 450 feet southeast of South Carolina Avenue, being Lot 8, Block F within L.P. Faucett, Inc. Development.

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

Mr. Rickard presented the case. Richard Hans and Charles Zonko were sworn in along with John Sergovic, Attorney, and testified requesting a 0.33-foot variance from the required 10-foot side yard setback requirement for Unit 1, a 7.24-foot variance from the required 10-foot side yard setback requirement for steps on Unit 1, a 0.24-foot variance from the required 10-foot side yard setback requirement and a 7.32-foot variance from the required 10-foot side yard setback requirement for steps on Unit 2; that the rear yard variance requests were approved on January 28, 2008; that they would like to install steps to the rear decks; and that currently the only access to the structure is through the front.

Mr. Rickard stated the office received 5 letters in support of the application.

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

Motion by Mr. McCabe, seconded by Mr. Workman, and carried unanimously to incorporate the testimony from Case No. 10040 heard on January 28, 2008.

Motion by Mr. McCabe, seconded by Mr. Workman and carried unanimously that the case be **granted since the two (2) units have been there for sixteen (16) years, since it enables reasonable use of the property and since it will not alter the essential character of the neighborhood.** Vote carried 5 – 0.

**Case No. 10106 – Thomas Goodale** – south of Cannon Road, north of Overbrooke Court, being Lot 133 within Clearbrooke development.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Brian Brown was sworn in and testified requesting a 10.7-foot variance from the required 30-foot front yard setback requirement; that the dwelling was built over the building restriction line; that the septic system is located on the east side of the property; and that when a survey was done the violation was discovered.

Mr. Rickard stated the office received 1 letter in support of the application.

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

**Case No. 10107 – Marjorie Carter Farrell** – north of private road, 174.70 feet east of Road 485.

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

Mr. Rickard presented the case. Marjorie Farrell and Tanya Bramble were sworn in and testified requesting a special use exception to retain a manufactured home on a medical hardship basis; that it is for her granddaughter; and that they did not realize they needed to renew the hardship.

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 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. 10108 – Love Creek Marina and Mobile Home Sites, Inc.-** southeast of Road 468, 175 feet east of U. S. Route 13.

A special use exception to retain a manufactured home for security purposes.

Mr. Rickard presented the case. Milton Chaski was sworn in and testified requesting a special use exception to retain a manufactured home for security purposes; that it was approved in 1992; that he forgot to reapply after the 5 years; that there have been no burglaries since the manufactured home has been placed; and that the property is for sale.

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 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. 10109 – David L. Grasso-** north of Route 22, north of Knoll Way, being Lot 536 within Mariners Cove.

A variance from the separation requirement between units in a mobile home park and a variance from the maximum allowable lot coverage requirement in a mobile home park.

Mr. Rickard presented the case. David Grasso was sworn in and testified requesting a 8-foot variance from the required 20-foot separation requirement between units for a proposed shed and a 177-square foot variance from the required 35% lot coverage requirement; that he will be making this his permanent residence; and that he needs a shed for storage.



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

### **OLD BUSINESS**

**Case No. 9866 – S. Carter Knotts-** south of Route 22, being Lot 34 within White House Beach Mobile Home Park.

A variance from the side yard setback requirement.

The Board discussed the case, which has been tabled since June 18, 2007.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variance be **denied since it is not possible to determine the exact variance needed without a proper survey**. Vote carried 5 – 0.

**Case No. 10062 – William and Karen Keyser-** north of Atlantic Avenue, being Lot E-68 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 February 25, 2008.

Motion by Mr. Hudson, seconded by Mr. McCabe, and carried unanimously that the variance be **granted since other variances have been 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. 10088 – George Lobenhofer-** east of Route 5, south of Rivers Edge Road, being Lot 54, Phase 2 within Stonewater Creek development.

A variance from the side yard setback requirement.

The Board discussed the case, which has been tabled since March 17, 2008.

Motion by Mr. Hudson, seconded by Mr. Workman, and carried unanimously that the variance be **granted since it was not created by the applicant and since it will not alter the essential character of the neighborhood**. Vote carried 5 – 0.

**Case No. 10090 – Keywest Investments LLC-** south of Route One, 750 feet northwest of Road 88.

A variance from the maximum height requirement for a billboard.

The Board discussed the case, which has been tabled since March 17, 2008.

Motion by Mr. Mills, seconded by Mr. Workman and carried unanimously that the variance be **denied since the opposition addressed that the applicant didn't meet the standards for granting a variance.** Vote carried subject to roll call 3 – 2.

Mr. McCabe - No  
Mr. Workman- Yes  
Mr. Hudson- Yes  
Mr. Mills- Yes  
Mr. Callaway- No

**Meeting Adjourned at 9:20 p.m.**