



# BOARD OF ADJUSTMENT

## AGENDAS & MINUTES

### MINUTES OF APRIL 4, 2011

The regular meeting of the Sussex County Board of Adjustment was held on April 4, 2011, 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. Jennifer Norwood – 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 approve the Minutes of March 21, 2011 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. 10779 – Denise A. Violette** – west of Road 285 (Beaver Dam Road).

A special use exception to maintain a garage/studio apartment and a variance from the maximum square footage requirement for an apartment.

Mrs. Isaacs presented the case. Denise Violette was sworn in with Daniel Myers, Attorney, and testified requesting a special use exception to maintain a garage/studio apartment and a 15-square-foot variance from the required maximum 800-square-foot requirement for an apartment; that she purchased the property in 2005; that the studio already existed and the previous owner had begun construction to include a kitchen; that she completed the construction and has rented the apartment for 3-years now; that she was not aware that the apartment was not permitted; that the Planning & Zoning Department sent her a violation; that the use will not adversely effect the neighborhood; that her neighbors support the application; and that it is rented yearly.

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

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

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

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

**Case No. 10780 – Tommy and Elaine Stepnay** – west of Route 24 corner of Wandering Lane and Pickwicke Road, being Lot 82 within Fox Hollow Development.

A variance from the corner side yard setback requirement.

Mrs. Isaacs presented the case. Elaine Stepnay was sworn in and testified requesting a 12-foot variance from the required 15-foot side yard setback requirement for a corner lot; that the shed is already on the lot; that the building permit stated that the shed be placed 15-feet from Pickwicke Rd; that the permit does not state from the property line; that she placed the shed 17-feet from the street; that she obtained the building permit through the mail; that due to an existing drain field and pool the shed cannot be moved into compliance; and that she submitted a copy of the building permit.

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

**Case No. 10781 – Maria & Patrick O'Shea** – northeast of Route 1 corner of Robinson Drive and Blackstone Avenue, being Lot 1 and p/o Lot 46 within Silver Lake Manor Development.

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

Mrs. Isaacs presented the case. Maria O'Shea was sworn in and testified requesting a 12-foot variance from the required 15-foot side yard setback requirement for a proposed inground pool, a 4-foot variance from the required 15-foot side yard setback requirement for a deck, a 6-foot variance from the required 10-foot side yard setback requirement for 2 attached outside showers, and a 1.5-foot variance from the required 5-foot side yard setback requirement for an existing deck; that she hired Resort Point

Builders and that they subcontracted the work for the deck and outside showers; that there were no building permits issued for the deck or outside showers; that the proposed location for the pool is necessary due to the irregular shaped lot; that there is an existing detached garage in the backyard; and that they explored several different options to try to comply with the required setbacks.

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

**Case No. 10782 0 CMF Bayside, LLC** – south of Route 54 (Lighthouse Road) 700 feet, west of Route 20, being within Americana Bayside Development.

A special use exception to place a manufactured home type structure and temporary building as a sales office.

Mrs. Isaacs presented the case. Douglas Brown and Steve Marsh were sworn in and testified requesting a special use exception to place a manufactured home type structure and temporary building as a sales office; that there are 3-structures on the property; that Resort Quest is located in Building 1; that the property manager is located in Building 2; that Building 3 is currently not being used; that the structures will be removed to construct commercial pads for future lease holders; that two potential commercial rentals are now pending; that once the commercial pads are constructed Resort Quest and the property manager will be relocated to an area just inside the development; and that they are requesting a time extension of 2-years to complete the project.

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 special use exception be **granted for a period of two (2) years since it meets the standards for granting a special use exception**. Vote carried 5 – 0.

**Case No. 10783 – Joseph Angle** – south of Route 54 (Lighthouse Road), northwest of Sunflower Blvd, being Lot 226 Phase 8 within Americana Bayside Development.

A variance from the rear yard setback requirement.

Mrs. Isaacs presented the case. Charles Jarvis was sworn in and testified requesting a 4.8-foot variance from the required 10-foot rear yard setback requirement for a proposed screen porch on an existing deck; that the existing screen porch is too small; that the proposed screen porch will not extend past the existing deck; that the existing

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deck encroaches 5-foot into the required setback requirement; and that Americana Bayside has no objection to the application.

Doug Brown was sworn in and testified in support of the application and stated, that he is the President of the Homeowner's Association; that the rear yard is adjacent to a 30-foot buffer and an open field; and that the proposed porch will have no adverse effect to the neighborhood.

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

Mrs. Isaacs stated that 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. Workman, and carried unanimously that the case be **left open to allow the Applicant to better prepare his case.**  
Vote carried 5 – 0.

**Case No. 10784 – Thomas J. Howard** – southeast intersection of Holland Glade Road and Hebron Road, northeast of Worcester Drive, being Lot 230 within Canal Point Development.

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

Mrs. Isaacs presented the case. Danny Wilson was sworn in and testified requesting a 7.5-foot variance from the required 10-foot rear yard setback requirement for a proposed deck and screen porch and a 9-foot variance from the required 10-foot side yard setback requirement for a proposed outside shower; that the rear yard is adjacent to an existing pond; that to comply with required setbacks he can only build a 9' x 18' deck and porch; that he wants a larger porch to allow room for a table and chairs; and that the lot is shallow.

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 case be **left open to allow the Applicant to better prepare his case**. Vote carried 5 – 0.

**Case No. 10785 – Louis S. & Christie Vaughan** – east of Road 357 (Cedar Neck Road) northwest of Bayfront Drive, being Lot 13 within Quillen’s Point Development.

A variance from the side yard setback requirement.

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Mrs. Isaacs presented the case. Louis & Christie Vaughan were sworn in and testified requesting a 3-foot variance from the required 10-foot side yard setback requirement for a proposed elevator; that the elevator will measure 5’x 6’; that the proposed location was the only option for the elevator; that any other location would be located in a bedroom or existing bathroom; that the neighbor has no objection to the application; and that the elevator is needed due to health and physical limitations of the Applicant.

Mrs. Isaacs stated that the office received 2 letters in support of 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 meets the standards for granting a variance**.  
Vote carried 5 – 0.

**Case No. 10786 – George and Penelope Hackmann, Jr.** – north of Road 58B (Bayville Road), northwest of Bayview Circle West, being Lot 201 within Bayview Landing Development.

A variance from the rear yard setback requirement.

Mrs. Isaacs presented the case. George and Penelope Hackmann were sworn in and testified requesting a 3.1-foot variance from the required 10-foot rear yard setback requirement for a proposed 3-season room; that the proposed 3-season room will be built on an existing deck; that the rear yard slopes and there is a ditch; that to build the room into compliance will leave only a 3-foot section of deck; and that extending the room over the 3-foot section of deck will allow reasonable use of the proposed 3-season room.

Ronald E. Gray was sworn in and testified in opposition to the application and stated, that he owns the Manufactured Home Park on the adjacent property; that he feels any further encroachment will add to the debris problem; that he is opposed to any variance; and that there is a 50-foot buffer between the park and the Applicant’s property.

In rebuttal, George and Penlope Hackmann stated that BayView Landing Development is a high quality development; that the debris in the ditch is mainly natural growth; that the proposed room will actually cut down on any debris problem; and that he submitted standards for granting a variance.

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Mrs. Isaacs stated that the office received 1 letter in support of the application and 1 letter in opposition to the application.

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

Motion by Mr. Hudson, seconded by Mr. McCabe, and carried unanimously that the case be **tabled until April 18, 2011**. Vote carried 5 – 0.

**Case No. 10787 – Sussex Ventures, Inc.** – south of Road 46 (Old Furnace Road) south of Ridgewood Drive, being Lot 25 within Ridgewood Crossing Development.

A variance from the side yard setback requirement.

Mrs. Isaacs presented the case. Drew Ward was sworn in and testified requesting a 9.8-foot variance from the required 15-foot side yard setback requirement for an existing dwelling; that the dwelling was built in 2010; that he determined the placement of the dwelling; that he only measured from the front yard property markers; that the side yard property angles in creating the reason for the encroachment; that the encroachment was not discovered until a final placement survey was completed; that the Certificate of Compliance was issued by the Planning & Zoning Department; that the property is unique due to the angled property lines; and that it will not alter the 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 variance be **granted since it meets the standards for granting a variance**. Vote carried 5 – 0.

### **OLD BUSINESS**

**Case No. 10771 – Albert J. and Patricia Riedinger** – north of Maryland Avenue.

A variance from the front yard setback requirement.

The Board discussed the case which has been tabled since February 28, 2011.

Motion by Mr. Mills, seconded by Mr. Hudson to approve the variance request. The application was denied by a vote of 3 -2, with Mr. McCabe, Mr. Workman and Mr. Callaway opposing the motion. The vote by roll call: Mr. McCabe – no, Mr. Workman – no, Mr. Callaway – no, Mr. Hudson – yea, and Mr. Mills – yea.

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**Case No. 10760 – Daleann Al-Hamad** – east of Route One (aka Coastal Highway) south of Willet Road, being Lot S-7 within Ocean Village Development.

A variance from the front yard setback requirement.

The Board discussed the case which has been tabled since March 21, 2011.

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; that it is the minimum variance to afford relief; and that the lot is unique.**

Vote carried 5 – 0.

### **OTHER BUSINESS**

**Case No. 10769 – Cellco Partnership D/B/A Verizon Wireless** – south of Briarhook Road, one third feet west of Hensley Road.

A special use exception to place a telecommunications monopole, a variance from the warning lights requirement that shall be placed every 50 feet of elevation.

The Board discussed the case which has been tabled since March 21, 2011.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously to have the Applicant **re-apply and a motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to incorporate this case with the new application.**

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.

Request for a time extension.

Mrs. Isaacs read a letter from the Applicant requesting a 24-month extension.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the request for a time extension be **granted for a period of two (2) years**. Vote carried 5 – 0.

**Case No. 10664 – 26 Centre LLC** – east of U.S. Route 113, west of Road 334.

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A special use exception to place a billboard, a variance for additional signs on billboard, a variance from the maximum height and square footage requirements, and a variance from the setback requirements for a billboard.

Request for a time extension.

Mrs. Isaacs read a letter from the Applicant requesting a 24-month extension.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the request for a time extension be **granted for a period of two (2) years**. Vote carried 5 – 0.

**Meeting Adjourned 9:05 p.m.**