



BOARD OF ADJUSTMENT

AGENDAS & MINUTES

MINUTES OF AUGUST 16, 2010

The regular meeting of the Sussex County Board of Adjustment was held on Monday August 16, 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. John Mills, Mr. Brent Workman and Mr. Jeff Hudson, with Mr. Richard Berl – Assistant County Attorney and staff members, Mrs. Kelly Passwaters- Zoning Inspector, and Mrs. Jennifer Norwood- Recording Secretary.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously to approve the Revised Agenda as circulated. Vote carried 4 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of August 2, 2010 meeting as circulated. Vote carried 4 – 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. 10668 – Clear Channel Outdoor, Inc. – west of U.S. Route 13, 2,675 feet north of Road 545.

A special use exception to replace a billboard.

Mrs. Passwaters presented the case. Betsy Cottingham was sworn in and testified requesting a special use exception to replace an existing billboard; that the existing billboard is in poor condition; that the proposed billboard will not be as tall as the existing billboard; that the proposed billboard will have 3 wooden poles and will not be a steel monopole due to expense; that they have owned the billboard for 10-years; that it will not substantially effect the adjacent neighborhood; that it enables reasonable use of the property; and that she submitted pictures.

Richard and Diane Datesman were sworn in and testified in support of the application; and stated that they own the property, and that the proposed billboard will enhance their property.

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. Workman, and carried unanimously that the special use exception be **granted since it will not substantially effect adversely the uses of adjacent and neighboring property**. Vote carried 4 – 0.

Case No. 10669 – Dorothy and Jonathan Casto – south of Old Furnace Road, ½ mile southeast of Road 524, being Lot 6.

A special use exception for a day care facility.

Mrs. Passwaters presented the case. Dorothy and Jonathan Casto were sworn in and testified requesting a special use exception for a day care facility; that they currently run a small day care on the property; that they were approved by Planning & Zoning to operate the existing day care; that they want to increase the number of children from 6 to 9 children; that they live in a 3,400-square-foot dwelling on a 14-acre parcel; that the hours of operation will be Monday through Friday from 7 am to 6 pm; that the ages of children will be from birth to 12-years of age; and that they have a dedicated room in their home for the day care center.

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 since it will not substantially affect adversely the uses of adjacent and neighboring property**. Vote carried 4 – 0.

Case No. 10670 – Sea Breeze, LP – south of Route One, west of Dodd Avenue, being Lot G18 within Sea Air Mobile City Mobile Home Park.

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

Mrs. Passwaters presented the case. Cindy Surface was sworn in with David Hutt, Attorney, and testified requesting a 1-foot and 7.7-foot variance from the required 20-foot separation requirement between units in a mobile home park; that the Board granted the same variances in October 2008; that the proposed unit will measure 20' x 40' with a factory built porch; that this size unit is no longer available, however the manufactured home company is building this unit in order to allow the Applicant to apply for the same variance as in the past; and that there have been similar variances granted in the park.

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 meets the standards for granting a variance**.
Vote carried 4 – 0.

Case No. 10671 – David Bohenic – south of Route 22 (Long Neck Road), north of East River Drive, being Lot C-13 within White House Beach Mobile Home Park.

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

Mrs. Passwaters presented the case. David Bohenic and Ted Spengos were sworn in and testified requesting a 4.8-foot variance from the required 20-foot separation requirement between units in a mobile home park; that the Board granted a variance in 2005; that he was unable to purchase the unit in 2005; that the proposed unit will measure 30.8' x 56.5'; that there are numerous variances in the mobile home park; that the existing sheds on the lot will be moved or removed; that the existing unit is a 1966, 12' x 50' with a 12' x 50' addition; and that this is his primary residence.

The Board found that no parties appeared in support of or 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 4 – 0.

Case No. 10672 – Edgar and Judith Kaufman – south of Route 54, east of Hickory Lane, being Lot 20, Subdivision 4 within Keen Wik development.

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

Mrs. Passwaters presented the case. Edgar and Judith Kaufman were sworn in and testified requesting a 3.3-foot variance from the required 30-foot front yard setback requirement and a 3.8-foot variance from the required 10-foot side yard setback requirement for an existing dwelling; that the property was purchased in 1972 by his parents; that in 1992 his mother applied for a building permit to build a second floor addition; that the addition was never completely finished; that the existing dwelling began to sink over the years; that in 1995 they took over ownership; that his mother passed in 2009; that he then obtained a building permit to raise the dwelling and build a new foundation; that the dwelling now meets all flood zone requirements; and that the dwelling remained within the same footprint.

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

Mrs. Passwaters stated that the office received 1 letter in support 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 4 – 0.

Case No. 10673 – Bruce Zamzow – west of Road 362, south of Mahogany Street, being Lot 18, Section 4, Parcel B, Block K within Shady Dell Park development.

A variance from the side yard setback requirement.

Mrs. Passwaters presented the case. Bruce Zamzow was sworn in with Tim Willard, Attorney, and testified requesting a 3.6-foot variance from the required 5-foot side yard setback requirement for an existing shed; that he placed the shed on the lot 2-years ago; that he was not aware a building permit was required for a structure not on a foundation; that the lot is only 75-foot wide; that the existing manufactured home is 14' x 60' and is placed in the center of the lot; that there is also an existing deck on the same side as the shed; that there are mature trees on the opposite side of the lot; that the shed would simply be too close to the existing deck if placed within the setback requirements; and that the shed is used to store tools and large pieces of furniture which the Applicant restores.

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 the case be taken under advisement. Vote carried 4 – 0.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the variance be **denied since it does not meet the standards for granting a variance**.
Vote carried 4 – 0.

Case No. 10674 – Cape Henlopen School District – east of Route 24.

A special use exception to place a manufactured home type structure as a classroom.

Mrs. Passwaters presented the case. Tyrone Woodyard was sworn in and testified requesting a special use exception to place a manufactured home type structure as a classroom; that the proposed unit will measure 24' x 54'; that the unit will be used for

special education ILC classes; that financially they are unable to build an addition to the existing school; and that the structure will be placed at the end of Pod 3.

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 special use exception be **granted for a period of five (5) years**. Vote carried 4 – 0.

OLD BUSINESS

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 July 19, 2010.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be **tabled until September 13, 2010 and that a decision will be made that night**. Vote carried 4 – 0.

Case No. 10654 – Donald J. and June M. Elardo – north of Route One, east of Anna B Street, being Lot 10, Block E within Dodds Addition development.

A variance from the front yard setback requirement.

Mrs. Passwaters read the letter from the surveyor stating that an average had been done and that a variance would not be needed. She also read a letter from the Applicant requesting a refund of the application fee.

The Board discussed the case which was left open at the July 12, 2010 hearings.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the variance be **denied since it is not necessary and that no refund will be issued**. Vote carried 4 – 0.

Meeting Adjourned 8:25 p.m.

