



BOARD OF ADJUSTMENT

AGENDAS & MINUTES

MINUTES OF AUGUST 2, 2010

The regular meeting of the Sussex County Board of Adjustment was held on Monday August 2, 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. 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 the July 12, 2010 meeting and the Minutes of the July 19, 2010 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. 10665 – Matthew and Beth Smiley – north of Road 275, corner of Cedar Drive and Mulberry Lane, being Lot 1, Block P within Sandy Brae development.

A variance from the front yard setback requirement for a through lot.

Mrs. Isaacs presented the case. Matthew & Beth Smiley were sworn in and testified requesting a 12.5-foot variance from the required 40-foot front yard setback requirement for a through lot for a proposed detached garage; that they purchased the lot in October 2009; that if they attached the garage to the existing dwelling they would need to do major remodeling on the interior of the dwelling to accommodate the garage; that the lot is surrounded by streets on three sides; that the Homeowner's Association

supports the application; and that they are requesting the minimum variance to afford relief.

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 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. Workman, seconded by Mr. McCabe, and carried that the variance be

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granted since it will not alter the character of the neighborhood and since it is the minimum variance to afford relief. Vote carried 4–1, with Mr. Mills voting against.

Case No. 10666 – Clean Energy USA, LLC – west of U.S. Route 13, 694 feet south of Road 481.

A special use exception to place a windmill.

Mrs. Isaacs presented the case. Craig Littleton was sworn in and testified requesting a special use exception to place a windmill; that the windmill will be mounted on a 45-foot high monopole; that the property owner currently has solar panels on the property; that 50% of the businesses energy will be generated from the proposed windmill and the solar panels; and that the proposed windmill will meet all setback requirements.

Michael Rhue was sworn in and testified in support of the application; and stated that he feels the windmill is an asset to the community; and that the proposed windmill shows the State of Delaware is serious about going Green for the environment.

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. Mills, seconded by Mr. Workman, 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 5 – 0.

Case No. 10667 – James K. and Susan L. Halpin – south of Road 259, south of South Lake Drive, 650 feet west of East Lake Drive, being Lot 43 within Lazy Lake development.

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

Mrs. Isaacs presented the case. Jason Halpin and James Halpin were sworn in and testified requesting a 4-foot variance from the required 30-foot front yard setback requirement for an existing porch, a 4-foot variance from the required 10-foot side yard setback requirement, and a 8.67-foot variance from the required 10-foot rear yard setback requirement for a proposed detached garage; that they purchased the property in 2002; that the porch existed when they purchased the property; that the proposed garage will replace 2 existing sheds; that the proposed location will allow them to save 2 trees on the lot; and that they submitted pictures and letters of support.

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Mrs. Isaacs stated that the Applicant submitted 4 letters of support for 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. Hudson, and carried unanimously that the variances be **granted since it will not alter the character of the neighborhood**.
Vote carried 5 – 0.

OLD BUSINESS

Case No. 10643 – Liberty Towers, LLC – west of Road 78.

A special use exception for a communication tower and a variance from the maximum allowable height requirement for a tower.

Mr. Berl stated that the code is vague on how a case is to be advertised and that it was decided the case was advertised properly.

The Board discussed the case, which has been tabled since July 12, 2010.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the special use exception be **granted since it meets the standards and that the variance be denied since it does not meet the standards for granting a variance**. Vote carried 5 – 0.

Case No. 10647 – Frank A. Miranda – north of Route 357A, being Lot 3 within Laura Short development.

A special use exception to place a windmill and a variance from the front yard setback requirement.

The Board discussed the case, which has been tabled since July 12, 2010.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the special use exception be **granted since it meets the standards for granting a special use and that the variance be denied since it does not meet the standards for granting a variance**. 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 or additional signs on a billboard, a variance from the maximum height and square footage requirements, and a variance from the setback requirements for a billboard.

The Board discussed the case, which has been tabled since July 19, 2010.

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

OTHER BUSINESS

Case No. 10645 – Thomas Kelly – east of Road 271, south of Worcester Road, being Lot 11 within Canal Point development.

A variance from the rear yard setback requirement.

Reconsideration

Mrs. Isaacs read the letter from the Applicant requesting the reconsideration.

The Board discussed the letter of reconsideration.

Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously that the reconsideration be **denied**. Vote carried 5 – 0.

Meeting Adjourned 8:05 p.m.