



BOARD OF ADJUSTMENT

AGENDAS & MINUTES

MINUTES OF AUGUST 20, 2007

The regular meeting of the Sussex County Board of Adjustment was held on Monday August 20, 2007, 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 Ms. Kelly Eaton – Recording Secretary.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously to approve the Revised Agenda with the correction to move Case No. 9905 – Michael and Christine Butterworth to the beginning of the agenda. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of August 6, 2007 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. 9905 – Michael and Christine Butterworth- east of Gravel Hill Road, 3.2 miles north of Town of Millsboro.

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

Mr. Rickard read a letter from the Applicant requesting that the hearing be rescheduled due to a death in the family.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the request for the hearing to be rescheduled be **granted**. Vote carried 5 – 0.

Case No. 9903 – Reynolds Construction LLC- intersection of Jefferson Street and Route One, being Lot 8.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. James Fuqua, Attorney, present on behalf of the applicant, testified requesting a 25-foot variance from the required 60-foot front yard setback requirement; that the parcel is zoned C1; that it fronts on Jefferson Street; that they are proposing to construct a 3 story building with office and apartment space; that the 60-foot front yard setback would make it difficult to build due to lot size; that it is adjacent to State lands; that it is directly across from the Rehoboth Beach water tower; and that the home on the property will be removed.

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 variance be **granted since it will not affect adjacent and neighboring properties and since the lot size was not created by the applicant.** Vote carried 5 – 0.

Case No. 9904 – Georgetown Auto Sales, Inc.- west of U.S. Route 113, 500 feet north of North Bedford Street Extended.

A special use exception for a private garage for more than four (4) automobiles and larger than nine hundred (900) square feet.

Mr. Rickard presented the case. James Stickels was sworn in and testified requesting a special use exception for a private garage for more than four (4) automobiles and larger than nine hundred (900) square feet; that the special use is for a pole building that has already been placed on the property; that the permit was issued in error; that the violation was discovered when it was inspected; and that it will be used for personal use.

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 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 special use exception be **granted with the stipulation that it is for personal use only.** Vote carried 5 – 0.

Case No. 9906 – Darin and Christine Pantalione – southwest of Route 54, corner of Wilson Avenue and Lincoln Drive, being Lot 34, Block 3 within Cape Windsor development.

A variance from the rear yard setback requirement.

Mr. Rickard presented the case. Darin Pantalione was sworn in and testified requesting a 0.8-foot variance from the required 20-foot rear yard setback requirement;

That the variance is needed a 2nd story deck; and that the deck extends past the foundation and hangs over into the setback.

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 is a minimum variance and since it will not alter the essential character of the neighborhood**. Vote carried 5 –0.

Case No. 9907 – Eric J. Polansky- Laws Point Road, being Lot 66, Block E within Swann Keys development,

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Jane Patchell, Attorney, present on behalf of the applicant, testified requesting a 4-foot variance from the required 10-foot side yard setback requirement for a mobile home; that the property was purchased on May 31, 2007; that a survey was done after the property was purchased; that the manufactured home was placed in 1993; and that a certificate of occupancy was issued in October 1995.

Mr. Rickard stated that the office received 1 letter 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**. Vote carried 5 – 0.

Case No. 9908 – Richard Kroos- east of Captains Lane, being Lot 70, Block 1 within Bayview Estates development.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Richard Kroos was sworn in and testified requesting a 8.2-foot variance from the required 30-foot front yard setback requirement; that the porch was constructed over the existing deck; that it was constructed to protect the front door from the weather; and that they have renovated the entire house.

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 **tabled until September 10, 2007**. Vote carried 5 – 0.

Case No. 9909 – James E. Cregan- west of Road 362, north of Holly Street, being Lot 9, Section 3, Block E within Shady Dell Park development.

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

Mr. Rickard presented the case. James Cregan was sworn in and testified requesting a 5-foot variance from the rear yard and side yard setback requirements; that he purchased the property 1 year ago; that the current mobile home is a 1969; that he would like to remove the existing mobile home; that he would like to replace it with a modular home and garage; and that he would like to possibly place a deck and outside shower on the property in the future.

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 **tabled until a drawing can be submitted with accurate measurements**. Vote carried 5 – 0.

Case No. 9910 – Irma and William Prettyman, Jr.- southwest of Road 254, 2,309 feet southeast of Road 255.

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

Mr. Rickard presented the case. Irma and William Prettyman were sworn in and testified requesting a variance to permit decks, porches, and etc. on campers; that every lot has been inspected by Sussex County; that 8' x 8' sheds are allowed on the sites.

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 5 – 0.

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

Case No. 9911 – Merrill and Judy Baker- west of Road 243, 1,100 feet east of North Bedford Street.

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

Mr. Rickard presented the case. Merrill and Judy Baker were sworn in and testified requesting to retain a manufactured home on a medical hardship basis; that the home is for her granddaughter; and that the case was previously approved in 1999.

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**. Vote carried 5 – 0.

Case No. 9912 – Shirley and Paul Caldwell- southeast of Road 462.

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

Mr. Rickard presented the case. Shirley and Paul Caldwell were sworn in and testified requesting a special use exception to retain a manufactured home on a medical hardship basis; that the case was previously approved in 1996; and that it is for his father.

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 special use exception be **granted for a period of 2 years**. Vote carried 5 – 0.

Case No. 9913 – James and Kelly Farrelly – west of Road 556.

A variance from the model age requirement for replacement of a manufactured home.

Mr. Rickard presented the case. James and Kelly Farrelly were sworn in and testified requesting a variance from the model age requirement for replacement of a manufactured home; that they currently live in a 1999 singlewide; that they purchased a 1996 doublewide; that they feel it would be an upgrade to the neighborhood; and that it will be placed on permanent foundation.

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 will not affect adjacent properties**. Vote carried 5 – 0.

Case No. 9914 – Ronald S. Hart – north of Route 18, 625 feet west of Road 546.

A special use exception to retain a manufactured home on less than ten (10) acres.

Mr. Rickard presented the case. Ronald Hart was sworn in and testified requesting a special use exception to retain a manufactured home on less than ten (10) acres; that the manufactured home was originally placed on a medical hardship basis; that the property is a poultry farm; that he would like to retain the manufactured home on the property for an employee or family member; and that the manufactured home was placed on the property in 1995.

By a show of hands, 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 special use exception be **granted since it will not affect adjacent properties**. Vote carried 5 – 0.

Case No. 9915 – Rada B. Bowden- east of Road 92.

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

Mr. Rickard presented the case. Janet L. Bowden was sworn in and testified requesting to retain a manufactured home on a medical hardship basis; that the manufactured home has been on the property for 22 years; that the case was previously approved in 1985.

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 special use exception be **granted for a period of 2 years**. Vote carried 5 – 0.

Case No. 9916 – Janki Ramnath- west of U. S. Route 13, south of Road 485A, being Lots 32 thru 36, Block A within Easter Heights development.

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

Mr. Rickard presented the case. Janki Ramnath was sworn in and testified requesting a special use exception to retain a manufactured home on a medical hardship basis; that the case was previously approved in 1999.

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**. Vote carried 5 – 0.

Case No. 9917 – Douglas M. & Kathy L. Deiss- north of Road 333, 520 feet west of Pebble Drive, being Lot 5, Block C within Sandy Beach development.

A variance from the rear yard setback requirement.

Mr. Rickard presented the case. Douglas and Kathy Deiss were sworn in and testified requesting a 15-foot variance from the required 20-foot rear yard setback requirement; that it is a undersized lot; that they would like to place a deck on the back of the home; that the Board of Adjustment granted approval in 2004 for the same variance; and that the deck was never constructed.

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

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

Motion by Mr. Hudson, seconded by Mr. McCabe, and carried unanimously that the variance be **granted since it is the minimum variance**. Vote carried 5 – 0.

The Board to a 5-minute recess.

OLD BUSINESS

Case No. 9894 – Michael S. Melson- north and south of Road 573, 336 feet south of Road 575.

A special use exception to retain a manufactured home on less than ten (10) acres.

The Board discussed the case, which has been tabled since August 6, 2007.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the special use exception be **denied**. Vote carried 2 – 2.

Due to a tie vote, the motion has been **tabled**.

Meeting adjourned at 8:35 p.m.