



BOARD OF ADJUSTMENT

AGENDAS & MINUTES

MINUTES OF AUGUST 22, 2011

The regular meeting of the Sussex County Board of Adjustment was held on Monday, August 22, 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 Vice-Chairman Mills presiding. The Board members present were: 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. Hudson, seconded by Mr. Workman, and carried unanimously to approve the Revised Agenda as circulated. Vote carried 5 – 0.

Motion by Mr. Hudson, seconded by Mr. Workman, and carried unanimously to approve the Minutes of August 8, 2011 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. 10838 – Darin and Vicki Shartzter – south of Route 54 southwest of Cleveland Avenue, being Lot 25 and part of Lot 24 Block 4 within Cape Windsor development.

A variance from the side yard setback requirement.

Mrs. Isaacs presented the case. Darin & Vicki Shartzter were sworn in and testified requesting a 5-foot variance from the required 10-foot side yard setback requirement for a dwelling and an 8-foot variance from the required 10-foot side yard setback requirement for an air conditioning unit; that they had received a variance for the property in 2006; that they were not aware the variance approval expired after a year; that the builder was aware of the previous variance and was made aware in May 2011 that the variance would need to be applied for again; that they are seeking a lesser variance with this application than the request that was granted in 2006; and that the original structure was placed on the lot in 1970 and was only 3-foot from the property line.

William Sands and Robert Houtchens were sworn in and testified in opposition to the application and stated that in 2006 they were advised the variance was for an air conditioning unit only; and that the Applicant's lot is wider than other lots on the street.

In rebuttal, Darin & Vicki Shartzter stated that in 2006 the variance request was for a proposed dwelling and air conditioning unit; that there are numerous lots in the development with similar variances; that the variance is necessary to enable reasonable use of the

Minutes
August 22, 2011
Page 2

property; that it will not alter the character of the neighborhood; and that they did not create the hardship.

In rebuttal, Williams Sands, stated that Lot 25 is a larger lot in the development; and that they are concerned how the variance will affect their property.

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

The Board found that 3 parties appeared in opposition to the application.

Motion by Mr. Hudson, seconded by Mr. Workman, and carried unanimously that the case be taken under advisement. Vote carried 3 – 0.

At the conclusion of the public hearings, the Vice-Chairman referred back to this case. Motion by Mr. Hudson, seconded by Mr. Workman, and carried unanimously that the variances be **granted since it meets the standards for granting a variance**. Vote carried 3 – 0.

Case No. 10839 – Lawrence & Harriet Batis – north of Road 58B west of Bayview Circle West, being Lot 194 within Bayview Landing development.

A variance from the side yard setback requirement.

Mrs. Isaacs presented the case. Lawrence and Harriet Batis were sworn in and testified requesting a 3.5-foot variance from the required 10-foot side yard setback requirement for an attached shed; that the attached shed was built 3-years ago; that the builder obtained the building permit; that the builder agreed to apply for the variance for them; that the builder had their check and application in April; that by the end of May the builder had never applied for the variance; that they retrieved the check and application from the builder and applied for the variance themselves; that the shed does not alter the character of the neighborhood; that there is no known opposition from the neighbors; and that the rear of their property is adjacent to the woods.

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. Workman, seconded by Mr. Hudson, and carried unanimously that the case be **left open to subpoena the builder to testify on September 12, 2011.**

Vote carried 3 – 0.

Case No. 10842 – Ryan Homes – east of Route 5 (Long Neck Road) approximately 340 feet north of Route 24 (John J. Williams Highway).

Minutes
August 22, 2011
Page 3

A special use exception for an off-premise sign.

Mrs. Isaacs presented the case. Mike Schafer was sworn in and testified requesting a special use exception for an off-premise sign; that the sign was placed in 2009; that the special use exception has expired; that there are approximately 40-lots left to sell in the development; that the sign has been very instrumental to sales in the development; that the sign is not detrimental to the surrounding properties; and that the use is needed for 2-years.

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

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

Motion by Mr. Hudson, seconded by Mr. Workman, 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 3 – 0.

Case No. 10843 – Sharon Curry & Joyce Dotterweich – east of Route 16 (Broadkill Road) east of South Bayshore Drive, being Lot 6 within Broadkill Beach development.

A variance from the side yard setback requirement.

Mrs. Isaacs presented the case. Shannon Carmean, Attorney, was present on behalf of the Applicant, and testified requesting a 3.9-foot variance from the required 10-foot side yard setback requirement for a 2nd level deck and a 6.3-foot variance from the required 10-foot side yard setback requirement for an enclosed deck; that the structures were built in 1986; that Building Permits and Certificate of Compliances were issued; that the survey done for settlement showed the encroachment; that the lot is long and narrow in size; that the encroachment was not created by the Applicant; that it will not alter the character of the neighborhood; that the variance is necessary to enable reasonable use of the property; and that it is the minimum variance to afford relief.

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

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

Motion by Mr. Workman, seconded by Mr. Hudson, and carried unanimously that the variances be **granted since it meets the standards for granting a variance**. Vote carried 3 – 0.

Case No. 10844 – Brian & Lisa White – west of Road 279 (Camp Arrowhead Road) approximately 160 feet north of Road 277 (Angola Road).

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

Minutes
August 22, 2011
Page 4

Mrs. Isaacs presented the case. Hal Duke, Attorney, was present on behalf of the Applicant, with Lisa White who was sworn in and testified requesting a 0.8-foot variance from the required 5-foot side yard setback requirement for a detached garage and a 26.5-foot variance from the required 40-foot front yard setback requirement for a 2nd level deck; that the Applicant recently purchased the property; that a survey showed the encroachments; that the previous owner built the structures without building permits; that the Applicant owns the adjacent property; that the original structure was built in the 1940's; that it will not alter the character of the neighborhood; that this is the minimum variance to afford relief; and that the Certificate of Compliances have been issued.

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

Motion by Mr. Hudson, seconded by Mr. Workman, and carried unanimously that the variances be **granted since it meets the standards for granting a variance**. Vote carried 3 – 0.

Case No. 10845 – Paul Hignutt, Jr. – northwest of Road 524 (German Road) south of Road 46 (Old Furnace Road).

A special use exception to place a multisection manufactured home that is more than five (5) years old.

Mrs. Isaacs presented the case. Paul Hignutt, Jr. was sworn in and testified requesting a special use exception to place a multisection manufactured home that is more than five (5) years old; that he wants to give the property to his son; that his son has purchased a 1992 double-wide manufactured home to place on the property; that there are numerous manufactured homes in the area; that they have obtained permits from DNREC and DelDOT for the property; and that he submitted pictures of the proposed manufactured home.

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 special use exception be **granted since it will not substantially affect the uses of adjacent and neighboring properties**. Vote carried 3 – 0.

Case No. 10846 – Clear Channel Outdoor, Inc. – east of U.S. 113, 430 feet north of Road 114.

A special use exception to replace an existing billboard, a variance from the maximum height requirement, a variance from the allowable square footage of a billboard, variance from the front yard and side yard requirement for a billboard, and a variance from the setback requirement from dwelling, church, school, public lands or other sign.

Minutes
August 22, 2011
Page 5

Mrs. Isaacs presented the case. Nancy Chernoff was sworn in and testified requesting a special use exception to replace an existing billboard, a 12-foot variance from the required 25-foot maximum height requirement for a billboard, a 552-square-foot variance from the required 600-square-foot maximum square footage for a billboard, a 19-foot variance from the required 50-foot side yard setback requirement for a billboard; that the existing billboard was built in 2000; that Tri-Gas Oil Company has built a storage building which blocks a portion of the existing billboard; that the proposed billboard will be in the same location as the existing billboard; that the main difference with the proposed billboard will be the height; that the building cannot be relocated; and that there are numerous billboards in the area.

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. Hudson, seconded by Mr. Workman, and carried unanimously that the special use exception and that the variances be **granted since it will not alter the character of the neighborhood**. Vote carried 3 – 0.

Case No. 10847 – George & Diane Abbott – north of Route 54 west of Mallard Drive, being Lot 43 within Swann Keys Development.

A variance from the side yard setback requirement.

Mrs. Isaacs presented the case. Darrel Grier was sworn in and testified requesting a 2.4-foot variance from the required 10-foot side yard setback requirement for a roof over deck, a 4-foot variance from the required 10-foot side yard setback requirement for a roof over deck and an outside shower, and a 5-foot variance from the required 10-foot side yard setback requirement for an attached shed; that the Applicant wants to replace the existing unit; that the proposed dwelling is a single-story structure; that the lot is narrow in size; that there are numerous variances in the development; that it will not alter the character of the neighborhood; and that this is 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. Workman, seconded by Mr. Hudson, and carried unanimously that the variances be **granted since it meets the standards for granting a variance**. Vote carried 3 – 0.

Minutes
August 22, 2011
Page 6

OTHER BUSINESS

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

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

Request for a time extension.

Mrs. Isaacs read a letter from the Applicant requesting a 1-year time extension.

Motion by Mr. Workman, seconded by Mr. Hudson, and carried unanimously that the request for a time extension be **tabled until September 12, 2011**. Vote carried 3 – 0.

Meeting Adjourned 8:40 p.m.