



BOARD OF ADJUSTMENT

AGENDAS & MINUTES

MINUTES OF AUGUST 3, 2009

The regular meeting of the Sussex County Board of Adjustment was held on Monday August 3, 2009, 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. Brent Workman and Mr. Jeff Hudson, with Mr. Richard Berl – Assistant County Attorney and staff members, Mrs. Susan Isaacs and Mrs. Kelly Passwaters – Recording Secretary.

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

Motion by Mr. Hudson, seconded by Mr. Workman, and carried unanimously to approve the Minutes of July 20, 2009 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. 10449 – Tim Riale- north of Road 614, 1,375 feet east of Road 613.

A variance from the side yard setback requirement.

Mrs. Isaacs presented the case. Tim Riale was sworn in and testified requesting a 0.8-foot variance from the required 5-foot side yard setback requirement for a shed; that the shed encroaches into the setback; that a building permit was obtained; that a certificate of occupancy was issued on July 3, 2003; and that the violation was discovered when a survey was done.

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 variance be **granted since it is a minimum variance to afford relief, since it will not alter the essential character of the neighborhood and since it was not created by the applicant.** Vote carried 4 – 0.

Case No. 10450 – Lorene C. Breasure- southeast of Road 321, 533 feet southwest of Road 323, being Parcel B.

A special use exception for a miniature golf course and to retain a golf driving range.

Mrs. Isaacs presented the case. Lorene Breasure and Lauren Breasure were sworn in and testified requesting a special use exception for a miniature golf course and to retain a golf driving range; that they have currently operated a golf driving range for four (4) seasons; that they would like to establish a twelve (12) hole miniature golf course; that currently there are no lights on the driving range allowing people to play after dark; that they would like to place four (4) lights to shine down on the miniature golf course; and that they would like an time extension for the existing golf driving range.

Tiffani and Troy Coffelt were sworn in and testified in opposition to the application and stated they are neighbors to the golf driving range; that golf balls are being hit in their yard; that they have safety concerns for their young children; that the back portion of their property cannot be used due to safety reasons; that they did not attend the first public hearing when the golf farm was approved; that the golf driving range affects their property value; that noise is not a problem; that they would like to see the driving range moved to the east of the property; and that there are several holes in the nets.

In Rebuttal, Lorene and Lauren Breasure stated that the property to the east is not owned by them but by a family member; that the nets cover the Coffelt's back yard; and that there kids do play outside.

In Rebuttal, Tiffani Coffelt stated that golf balls do go airborne; and that there is no determination where they will go.

The Board found that 4 parties appeared in support of the application.

The Board found that 2 parties appeared in opposition to the application.

Motion by Mr. Workman, seconded by Mr. McCabe, and carried unanimously that the case be **tabled until the August 17, 2009 meeting**. Vote carried 4 – 0.

Case No. 10451 – Delaware Gospel Assembly- south of Route 18, 330 feet west of Road 528, being Lot 1.

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

Mrs. Isaacs presented the case. Lesley Marcelin was sworn in and testified requesting a special use exception to place a manufactured home type structure as a classroom; that the singlewide trailer will be for classroom use only; that it is a 1979 model; that the unit measure 14' x 64'; that it will be used on Sundays only for approximately 7 children; and that the trailer is already on the property but not being used.

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. Workman, seconded by Mr. McCabe, and carried unanimously that the case be **left open until August 17, 2009 for the applicant to submit pictures of the manufactured home.** Vote carried 4 – 0.

Case No. 10452 – Bryan D. and Angela M. Dattilo- north of Road 505, 3,000 feet west of Road 509.

A special use exception to retain a manufactured home on less than ten (10) acres and a variance from the minimum lot width requirement for a parcel.

Mrs. Isaacs presented the case. Bryan Dattilo and Jansen Burton were sworn in and testified requesting a special use exception to retain a manufactured home on less than ten (10) acres and a 100-foot variance from the required 150-foot lot width requirement; that they would like to sub-divide the parcel for a family member; that the back portion of the property is wooded and he plans to clear it; and that he would create a right of way to access the back of the property.

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 case be taken under advisement. Vote carried 4 – 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 and variance be **granted since it will not substantially affect adversely the uses of adjacent and neighboring properties and since there is a similar lot located down the street with the same road frontage.** Vote carried 4 – 0.

Case No. 10453 – Janice Brittingham Dix- south of Bunny Lane, 1,718 feet south of Route 20.

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

Mrs. Isaacs presented the case. Russell Brittingham was sworn in and testified requesting a special use exception to retain a manufactured home on a medical hardship basis; that he was not aware he needed to submit a letter to renew the hardship; that the manufactured home measures 14' x 70'; that the manufactured home is a 1995; and that the special use exception was approved in 2003.

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. McCabe, seconded by Mr. Workman, and carried unanimously that the special use exception be **granted for a period of two (2) years**. Vote carried 4 – 0.

Case No. 10454 – Tracy L. and Erin L. Meder- south Bayard Avenue, west of Swedes Street, being Lot F-13 within Seabreeze development.

A variance from the front yard setback requirement.

Mrs. Isaacs presented the case. Erin Meder was sworn in and testified requesting a 10-foot variance from the required 30-foot front yard setback requirement; that she has owned the property for nine (9) years; and that she would like to construct a garage and covered porch.

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. Hudson, and carried unanimously that the variance be **granted since it will not alter the essential character of the neighborhood**. Vote carried 4 – 0.

Case No. 10455 – Gene and Rosemarie Hritz- Route 54, west of Blue Bill Drive, being Lot 46, Block G, Section 2 within Swann Keys development.

A variance from the side yard setback requirement.

Mrs. Isaacs presented the case. Darryl Greir and Gene and Rosemarie Hritz were sworn in and testified requesting a 4.5-foot variance from the required 10-foot side yard setback requirement and a 7.8-foot variance from the required 10-foot side yard setback requirement for a HVAC unit; that they would like to construct a new home; that the steps will not be covered; and that the HVAC unit encroaches 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. Workman, and carried unanimously that the variances be **granted since it will not alter the essential character of the neighborhood**. Vote carried 4 – 0.

Case No. 10456 – Terry Hutson- south of Route 22, east of Winthrop Court, being Lot B-22-3 within Fairfield at Long neck development.

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

Mrs. Isaacs presented the case. Terry Hutson was sworn in and testified requesting a 7.4-foot variance from the required 40-foot rear yard setback requirement; that he would like to construct a 10' x 10' screen porch of the rear of the home; that he would like to construct a 10' x 20' concrete pad; and that he received approval from the homeowners association.

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. McCabe, and carried unanimously that the variance be **granted since it meets the standards for granting a variance**. Vote carried 4 – 0.

OLD BUSINESS

Case No. 10424 – Tidewater Utilities, Inc.- west of Irons Lane, 50 feet north of Manor Drive, within Bay Colony Section 3.

A special use exception to place a communication tower.

The Board discussed the case, which has been tabled since June 15, 2009.

Motion by Mr. Hudson, seconded by Mr. McCabe, and carried unanimously that the special use exception be **granted since it will not substantially affect adversely the uses of adjacent and neighboring properties**. Vote carried 4 – 0.

Case No. 10434 – Flexera, Inc. - east of Route 16, east of South Bayshore Drive, being Lot 31 and ½ of Lot 30, Block A, Section 2 within Old Inlet Beach.

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

The Board discussed the case, which has been tabled since July 6, 2009.

Motion by Mr. Workman, seconded by Mr. McCabe, and carried unanimously that the special use exception be **granted since it will not substantially affect adversely the uses of adjacent and neighboring properties.** Vote carried 4 – 0.

Case No. 10445 – Gerald F. Ferguson- north of Route 54, north of Canvasback Road being Lot 43, Block N within Swann Keys development.

A variance from the side yard setback requirement.

The Board discussed the case, which has been tabled since July 20, 2009.

Motion by Mr. McCabe, seconded by Mr. Hudson, and carried unanimously that the variance be **granted since it will not alter the essential character of the neighborhood and since several variances have been granted in the area.** Vote carried 4 – 0.

Case No. 10448 – Mr. and Mrs. Clifton J. Butts- intersection of Road 405 and White Avenue, being Lot 14 within E.A. Timmons Subdivision.

A special use exception to place a multi-sectional manufactured home that is more than five (5) years old on less than $\frac{3}{4}$ of an acre.

The Board discussed the case, which has been tabled since July 20, 2009.

Motion by Mr. Hudson, seconded by Mr. McCabe, and carried unanimously that that the special use exception be **granted since it will not substantially affect adversely the uses of adjacent and neighboring properties.** Vote carried 4 – 0.

Meeting adjourned at 8:30 P.M.

