



BOARD OF ADJUSTMENT

AGENDAS & MINUTES

MINUTES OF AUGUST 8, 2011

The regular meeting of the Sussex County Board of Adjustment was held on Monday, August 8, 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 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. McCabe, seconded by Mr. Mills, 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 July 25, 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. 10831 – West Rehoboth Community Land – east of Route 1 (Coastal Highway) north of Dunbar Street being part of Lot 90 within West Rehoboth development.

A variance from the maximum square footage requirement for a multifamily structure.

Mrs. Isaacs presented the case. Heidi Gilmore, Attorney, was present on behalf of the Applicant, and testified requesting a 273-square-foot variance from the required 7,260-square-foot lot size requirement for a multifamily structure; that the lot was originally created by a deed and was approximately 7,117.75-square-foot in size; that a survey and deed completed in 1994 showed the lot size to be 6,986-square-foot in size; that until 1999 there were 2-manufactured homes on the lot; that the lot has 2 existing laterals for sewer and water; that the lot is currently vacant; that the proposed duplex will front both Dunbar Street and Hebron Road; that the only access to the property will be from Dunbar Street per DelDOT; that the lot will have 4-parking spaces available; that the Applicant is currently waiting for a decision on their Conditional Use

application from Planning & Zoning and the County Council; that the Applicant is a non-profit organization and wants to help two families have affordable housing; that the proposed units will not alter the character of the neighborhood; that it is the minimum variance to afford relief; and that they submitted handouts.

Tim Willard, Attorney, was present with Robert Paul, who was sworn in and testified that he is in opposition to the application and stated that he supports the Applicant's desire to help the community; that he has renovated homes for low income families for over 35-years; that he is opposed to a multi-family structure; that the structure will decrease property values;; that there

Minutes

August 8, 2011

Page 2

are no other multi-family structures in the subdivisoin; that there are no sidewalks in the development; that there is no adequate parking in the development; that there is no unique conditions to the lot; that all of the lots in the development are similar in size; that an economical hardship is not recognized in the courts as a valid hardship; that there is no reason that the property cannot be otherwise developed; that crime has increased in the area; and that he submitted proposed findings and letters of opposition.

Jason Abela was sworn in and testified in opposition to the application and stated that a single family dwelling could be built on this property without any variances.

Stephanie Shelton was sworn in and testified in opposition to the application and stated that she has owned property in the development since 1991; that this is the only asset she owns; that she does not remember manufactured homes being on this property; that there is a parking problem on this street; and that the area is improving.

Helena Berp was sworn in and testified in opposition to the application and stated that parking is a huge problem on the street; that a few weeks ago someone hosted a party and cars blocked her driveway; and that she would not have purchased this property with multi-family structures in the area.

Tim Waters was sworn in and testified in opposition to the application and stated that if the Board approves this application it could set a precedent.

In rebuttal, Heidi Gilmore, stated that most of the properties in this development do not have the ability to construct multi-family structures; that this property already has 2 lateral hook ups for sewer and water; and that the property can support 2-families with the approval of this variance.

Frank Ruffie, was sworn in and testified in opposition to the application and stated that this application would begin a huge change to the neighborhood; and that it will lead to more multi-family structures in the area.

Mrs. Isaacs stated that the Board received 2-letters of opposition.

The Board found that 7-parties appeared in opposition to the application.

Motion by Mr. Workman, seconded by Mr. McCabe, and carried unanimously that the case be **tabled until August 22, 2011**. Vote carried 5 – 0.

At the conclusion of the public hearings Mr. Berl stated that this case should remain **tabled until the Planning & Zoning Commission and the County Council make a decision on the Conditional Use Application that is pending**.

Minutes
August 8, 2011
Page 3

Case No. 10832 – Jessica Campbell Ramirez – northwest of Road 270 (Wolf Neck Road).

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

Mrs. Isaacs presented the case. Jessica and Ramero Ramirez were sworn in and testified requesting a 0.6-foot variance from the required 5-foot rear yard setback requirement for an existing shed, a 2.2-foot variance from the required 5-foot rear yard setback requirement and a 3-foot variance from the required 5-foot side yard setback requirement for an existing block building; that the property was left to her in 2008; that the buildings were already on the property; that the block building was built in the 1970's; that they are selling the property and that a survey done for settlement showed the encroachments; that it was not created by the Applicant; that it will not alter the character of the neighborhood; and that both buildings are cemented to the ground.

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 5 – 0.

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

Case No. 10833 – Margaret A. Anderson Trust – corner of Old Landing Road and Breezewood Drive, being Lot 17 Block 2 within Breezewood development.

A variance from the side yard setback requirement.

Mrs. Isaacs presented the case. Chris Holmon, Attorney, was present on behalf of the Applicant, and testified requesting a 6.9-foot variance from the required 10-foot side yard setback requirement for an existing dwelling; that the dwelling was built in 1979; that the addition was built in 1995; that the Certificate of Compliance's were issued for both structures; that the property is unique due to angled property lines and the narrowness of the lot; that the

previous owner has passed; that it was not created by the Applicant; that it will not alter the character of the neighborhood; and that it is the minimum variance to afford relief.

The Board found that 1 party appeared in support of the application.

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

Minutes
August 8, 2011
Page 4

Motion by Mr. McCabe, seconded by Mr. Workman, and carried unanimously that the variance be **granted since it will not alter the character of the neighborhood and since it is the minimum variance to afford relief.** Vote carried 5 – 0.

Case No. 10834 – Lullaby House, Inc. – north of Route 9 (Lewes Georgetown Highway) east of Nassau Commons Blvd., being within Nassau Commons.

A special use exception to operate a daycare facility.

Mrs. Isaacs presented the case.

No one appeared on behalf of this application.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the special use exception be **denied due to lack of representation.** Vote carried 5 – 0.

Case No. 10835 – Gary and Shirley Curry – east of Road 341B (Pepper Creek Road) west of Long Leaf Road, being Lot 197 within Dogwood Acres development.

A variance from the side yard setback requirement.

Mrs. Isaacs presented the case. Ken Feaster, Attorney, was present on behalf of the Applicant, and testified requesting a 5-foot variance from the required 10-foot side yard setback requirement for an existing attached shed; that a survey done for settlement in April 2011 showed the encroachments; that the structures have been on the lot since 1981; that the property measures 80'x 125' making it a narrow lot; that it will create an unnecessary hardship to have to remove the attached shed; that it was not created by the Applicant; that it will not alter the character of the neighborhood; and that it is the minimum variance to afford relief.

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

The Board found that no parties appeared in support or 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 5 – 0.

Case No. 10836 – First State Signs – northeast intersection of Route 1 (Coastal Highway) and Kings Highway.

A special use exception to place a billboard, a variance from the maximum allowable square footage of a billboard, a variance from the height requirement, a variance from setback requirement from dwelling, church, public lands or another sign.

Minutes
August 8, 2011
Page 5

Mrs. Isaacs presented the case. Rob Gibbs, Attorney, was present on behalf of the Applicant, with Dale McCallister who was sworn in, and testified requesting a special use exception to replace a billboard, a 552-square-foot variance from the required 600-square-foot maximum allowable square footage, a 10-foot variance from the required 25-foot maximum height requirement, and a 45-foot variance from the required 300-foot setback requirement from another off-premise sign; that the existing billboard and buildings are to be torn down; that the proposed billboard will be a steel mono-pole structure; that the billboard will be double sided and side by side measuring 12'x 48'; that the height variance is to allow plenty of clearance for future structures to be built on this property; that the higher elevation also prevents vandalism; that the Applicant owns other billboards which are currently all rented with another in negotiation; and that there are numerous billboards and variances for billboards in the area.

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

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

Case No. 10837 – Eric Sugrue – east of Bald Eagle Road south of Fourth Street, being Lot 216 and 217 within Bay Vista development.

A variance from the rear yard setback requirement.

Mrs. Isaacs presented the case. Eric Sugrue was sworn in and testified requesting a 17.2-foot variance from the required 20-foot rear yard setback requirement for a studio addition and a 16-foot variance from the required 20-foot rear yard setback requirement for an attached outside shower; that he purchased the property years ago; that he renovated the entire property last year; that he obtained a building permit; that he built back what was originally on the property; that there are numerous dwellings in the development with similar variances; that it does not alter the character of the neighborhood; and that he submitted pictures.

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. Workman, and carried unanimously that the variances be **granted since it will not alter the character of the neighborhood and since there are numerous variances in the area.** Vote carried 5 – 0.

Minutes
August 8, 2011
Page 6

REORGANIZATION

Mr. Callaway appointed Mrs. Isaacs as Acting Chairman for the purpose of holding an Election of Officers.

Mrs. Isaacs opened nomination for Chairman.

Motion by Mr. Mills and seconded by Mr. McCabe, to nominate Mr. Callaway as Chairman.

Motion by Mr. Mills and seconded by Mr. Hudson that the nominations for Chairman be closed.

Motion was adopted to nominate Mr. Callaway as Chairman with 4 Yea and 1 abstaining.

Vote for Mr. Callaway, as Chairman, by roll call:

Mr. McCabe – Yea
Mr. Workman- Yea
Mr. Hudson – Yea
Mr. Mills - Yea

Mrs. Isaacs opened nominations for Vice-Chairman.

Motion by Mr. McCabe and seconded by Mr. Hudson to nominate Mr. Mills for Vice-Chairman.

Motion by Mr. Hudson and seconded by Mr. McCabe that the nominations for Vice-Chairman be closed.

Motion was adopted to nominate Mr. Mills as Vice-Chairman with 4 Yea and 1 abstaining.

Vote for Mr. Mills, as Chairman, by roll call:

Mr. Callaway – Yea
Mr. Workman – Yea
Mr. Hudson – Yea
Mr. McCabe – Yea

The meeting was turned over to Mr. Callaway, the re-elected Chairman.

Motion was made by Mr. Mills and seconded by Mr. McCabe to appoint Mrs. Isaacs as Secretary to the Board. Vote carried 5 – 0.

Meeting Adjourned 8:45 p.m.