



# BOARD OF ADJUSTMENT

## AGENDAS & MINUTES

### MINUTES OF DECEMBER 1, 2008

The regular meeting of the Sussex County Board of Adjustment was held on Monday December 1, 2008, 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 and Mrs. Kelly Passwaters – Recording Secretary.

Motion by Mr. Mills, seconded by Mr. Hudson, 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 November 3, 2008 and November 17, 2008 meetings 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. 10305 – Juli J. Hattier-** north and south of Road 344, 600 feet northwest of Road 342.

A variance from the minimum lot width requirement for a parcel.

Mr. Rickard presented the case. Juli Hattier was sworn in and testified requesting a 120-foot variance from the minimum lot width requirement; that she would like to construct a home for her parents; that the home will contain 2,200-square feet; that the lot will be deeded to her parents; and that there is a tax ditch that runs through the property.

Tim Willard, Attorney, testified on behalf of the opposition and stated that the original subdivision of the lot was created by the applicant; that she is creating a landlocked parcel; that the property is only unique by the way it is subdivided; that Mr. Hitchens does not want the 30-foot road frontage to be used as a road to access the

parcel; that Mr. Hitchens purchased his property in 1993; and that he has been maintaining the 30-foot of the property.

In rebuttal, Ms. Hattier stated that she did not originally subdivide the parcel; that she purchased the property in 1999; that she has also maintained the 30-foot road frontage of property along with Mr. Hitchens; and that it would create a hardship to not be able to create a road to access Parcel C.

The Board found that no 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 December 12, 2008 meeting**. Vote carried 5 – 0.

**Case No. 10306 – Mr. and Mrs. Erick Christain-** east of Raod 346, north of Timber Edge Drive, being Lot 26 within Blackwater Cove development.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Erick Christain, Mary Christian and Dennard Quillen were sworn in and testified requesting a 21-foot variance from the required 30-foot front yard setback requirement for an attached garage; that the garage is already constructed; that they did not realize there was a 30-foot front yard setback requirement; that they received a violation notice; and that the property backs up to wetlands.

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 alter the essential character of the neighborhood and since the property backs up to wetlands**. Vote carried 4 – 1.

**Case No. 10307 – Capstone Homes L.L.C. -** southeast of Route 9, 1,291.67 feet southwest of Road 290, being Lot 7.

A variance for an on-premise ground sign by using existing billboard and a variance from the maximum allowable square footage requirement for a ground sign.

Mr. Rickard presented the case. Preston Dyer was sworn in and testified requesting a 300-square foot variance from the required 150-square foot requirement for an on premise ground sign and a variance for an additional ground sign; that the billboard was approved on April 2004; that he believes the billboard classifies as an off premise sign; that Capstone Homes is only a sales center; that the parcel is unable to be subdivided; and that the products advertised on the billboard are sold at another location.

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 case be **tabled until the December 15, 2008 meeting for council to review the application.** Vote carried 5 – 0.

**Case No. 10308 – Clear Channel Outdoor-** west of U.S. Route 113, 10 feet north of Road 337.

A special use exception to place a billboard and a variance from the maximum allowable square footage requirement and maximum height requirement for a billboard.

Mr. Rickard presented the case. Rick Phillips was sworn in and testified requesting a special use exception to place a billboard, a 78-square foot variance from the required 300-square foot requirement and a 10-foot variance from the required 25-foot maximum height requirement; that he would like to place a 10' 6" x 36' double faced steel monopole billboard; that the two (2) wood billboard structures that are located 950-feet north of the location on a separate parcel will be removed; and that other billboards in the area exceed the height or size requirements.

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 and variance be **granted with the stipulation that the two (2) billboards located on a separate parcel be removed.** Vote carried 5 – 0.

**Case No. 10309 – Wendell P. Holman and Deborah McFarland-** southeast corner of Road 367 and Lincoln Drive intersection, being Lot 1 within Timberbeach development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Wendell Holman, Deborah McFarland and Tom Dukes were sworn in along with Robert Witsil, Attorney, and testified requesting a 3.3-foot variance from the required 15-foot side yard setback requirement and a 1.9-foot variance from the required 5-foot side yard setback requirement for a shed; that the shed is dilapidated; that the shed cannot be moved; that the shed was placed in 1999; that no permit was obtained for the shed; that in 1993 the garage and balcony were built; that a certificate of occupancy was issued on November 9, 1993 for the garage and balcony; and that the encroachment 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. McCabe, seconded by Mr. Workman and carried unanimously that the variance be **granted with the stipulation that the shed be removed and that the variances for the garage and balcony be granted since the encroachments were not created by the applicant, since a certificate of occupancy was issued, and since it will not alter the essential character of the neighborhood.** Vote carried 5 – 0.

**Case No. 10310 – Joshua Griffith-** Fir Drive Extended, being Lot 48, Section 3 within Kyrie Estates Phase 2.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Joshua Griffith was sworn in and testified requesting a 5-foot variance from the required 10-foot side yard setback requirement; that he would like to extend the existing garage; that that garage extension will measure 24' x 24'; and that the garage has already received a variance.

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

Mr. Rickard stated the office received 1 letter in support of 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 and since it is the minimum variance to afford relief.** Vote carried 5 – 0.

**Case No. 10311 – Randall S. King-** southwest of Road 92, 2,362 feet southeast of Road 375, being Lot 2.

A variance from the setback requirement for structures for the keeping of horses.

Mr. Rickard presented the case. Randall and Jeanette King were sworn in and testified requesting a 55-foot variance from the required 200-foot requirement from any lot lines, a 60-foot variance from the required 200-foot requirement from any lot lines and a 70-foot variance from the required 200-foot requirement from any lot lines; that the three (3) pole barns are used for run sheds; that he was not aware a permit was needed for the run sheds; that he was not aware of the setback requirements; and that the neighbor on Lot 3 does not oppose.

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 essential character of the neighborhood**. Vote carried 5 – 0.

**Case No. 10312 – Bruce and Diane Georgov-** northeast of North Bayshore Drive, southeast of West Virginia Avenue, being Lot 10, Block D within Broadkilm Beach Development.

A variance from the rear yard setback requirement.

Mr. Rickard presented the case. Diane Georgov was sworn in and testified requesting a 5-foot variance from the required 10-foot rear yard setback requirement; that she would like to construct a new home; and that the septic system is located in the front of the property.

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

Motion by Mr. McCabe, seconded by Mr. Workman, and carried unanimously that the variance be **granted since it will not alter the essential character of the neighborhood and since many variances have been granted in the area**. Vote carried 5- 0.

### **OLD BUSINESS**

**Case No. 10294 – Phil and Beryl Sachs-** west of Route One, 1 mile north of Fenwick Island Town Limits, being Unit 1 within Water's Edge development.

A variance from the setback requirement from state wetlands.

The Board discussed the case, which has been tabled since November 17, 2008.

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

**Case No. 10302- Steven D. Lorah-** north of Road 625, 2,185 feet west of U.S. Route 113.

A variance from the minimum acreage requirement to retain a manufactured home on a parcel.

The Board discussed the case, which has been tabled since November 17, 2008.

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

**Meeting Adjourned at 8:35 P.M.**