



BOARD OF ADJUSTMENT

AGENDAS & MINUTES

MINUTES OF DECEMBER 12, 2011

The regular meeting of the Sussex County Board of Adjustment was held on Monday, December 12, 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. Mills, seconded by Mr. Workman, 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 21, 2011 as circulated. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Findings of Facts of October 17, 2011. 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. 10901 – Dawn A. Schutt – north of Road 312 (River Road), west of road 311 (Chief Road).

A special use exception to replace a manufactured home and a variance from the front yard, rear yard, and side yard setback requirements.

Mrs. Isaacs presented the case. Dawn Schutt and Gil Fleming were sworn in and testified requesting a special use exception to replace a manufactured home, a 34-foot variance from the required 40-foot front yard setback requirement for a proposed manufactured home and existing screen porch and deck, a 6.8-foot variance from the required 10-foot rear yard setback requirement for a proposed manufactured home, a 6.4-foot variance from the required 10-foot side yard setback requirement for a proposed manufactured home, a 3.6-foot variance from the

required 5-foot side yard setback for steps and a landing, and a 7.5-foot variance from the required 10-foot side yard setback requirement for an existing pump house; that the proposed unit will measure 16' x 45'; that the unit will be placed within the same footprint as the existing unit; that the existing unit is over 22-years old and is in disrepair; that the lot is unique in shape; that the variance is needed to enable reasonable use of the property; that she did not create the lot; that the unit will not alter the character of the neighborhood; that this is the minimum variance to afford relief; and that the other structures already exist on the property.

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The Board found that 3-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. 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. Mills, seconded by Mr. Hudson, and carried unanimously that the special use exception and the variances be **granted since they meet the standards for granting a special use exception and for a variance**. Vote carried 5 – 0.

Case No. 10902 – Richard & Barbara Leibfried – north of Long Neck Road, north of Circle Drive, being Lot 45 within Bay City a Mobile Home Park.

A variance from the minimum lot coverage requirement in a mobile home park.

Mrs. Isaacs presented the case. Richard and Barbara Leibfried were sworn in and testified requesting a 1,012.15-square-foot variance from the required 35% lot coverage requirement in a mobile home park; that they purchased the unit March 2010; that the existing porch was in poor shape since no one had lived in the unit for over a year; that the existing porch has been removed; that the proposed porch will be 8-foot larger than the existing porch; that the existing structures already exceeded the 35% lot coverage requirement; that they plan to replace the 8'x 10' shed with a 12'x 24' shed; that the lot is small; and that they hired Patio Systems to construct the new porch.

The Board found that 10-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. Workman, and carried unanimously that the case be **recessed until January 9, 2012 to allow the Applicant to better prepare their case**. Vote carried 5 – 0.

Case No. 10903 – Janet and Bill Stenner – south of Route 54, east of Grant Avenue, being Lot 5, Block 6 within Cape Windsor development.

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

Mrs. Isaacs presented the case. Janet and Bill Stenner and Donald Esch were sworn in and testified requesting a 5-foot variance from the required 10-foot side yard setback requirement and a 5-foot variance from the required 20-foot rear yard setback requirement for a

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proposed dwelling; that the proposed dwelling will be approximately 1,484-square-foot in size and one-story; that the proposed location is in keeping with other dwellings in the development; that the previous structure was 5-foot from the side yard property line; that that dwelling has been removed; that the variance will not alter the character of the neighborhood; that the variance is needed to allow for off-street parking; that the variance is needed to enable reasonable use of the property; and that it is the minimum variance to afford relief.

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. Mills, 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. McCabe, and carried unanimously that the variances be **granted since it meets the standards for granting a variance**. Vote carried 5 – 0.

Case No. 10904 – Sharon Butterworth – south of Long Neck road, southeast of Fisherman’s Road being Lot 94 within White House Beach a Mobile Home Park.

A variance from the separation requirement between units in a mobile home park.

Mrs. Isaacs presented the case. Sharon Butterworth and Paula LaVallee were sworn in and testified requesting a 6.6-foot variance from the required 20-foot separation requirement between units and an 8.8-foot variance from the required 20-foot separation requirement between units in a mobile home park; that the unit has been on the lot since 1974; that the park requires all units in the park to have a shingled roof and vinyl siding all around by the year 2013; that the variance is needed for the posts needed to support the new roof; that the park requirement creates a uniqueness; that it was not created by the Applicant; that it will not alter the character of the neighborhood; that it does not adversely affect the neighboring properties; that it is the minimum variance to afford relief; and that they submitted pictures.

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 variance be **granted since it meets the standards for granting a variance**. Vote carried 5 – 0.

Case No. 10905 – George England and Sylvia E. Holleger England – west of Road 42 (Union Church Road) approximately 845 feet north of Road 620 (Abbott’s Pond Road).

A variance from the lot width requirement for a parcel.

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Mrs. Isaacs presented the case. George England, III was sworn in and testified requesting a 115.42-foot variance from the required 150-foot lot-width requirement for a parcel; that his mother has owned the lot since 1989; that the lot is long and narrow in size; that the lot fronts on two different roads; that they would like to subdivide the lot so he can build a dwelling on the property to be near his mother; that he will access his lot from Shawnee Road and his mother has access to her lot from North Union Church Road; that there will be no change in to the existing road frontage; that the variance is needed to enable reasonable use of the property; that it will not alter the character of the neighborhood; that the proposed dwelling will meet all required setback requirements; and that this is the minimum variance to afford relief.

The Board found that 7-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 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. 10906 – Robert H. and Maxine M. Savage – east of Road 22B (Morris Avenue Extended) approximately 1,027 feet north of Broadkill Road.

A variance from the front yard setback requirement.

Mrs. Isaacs presented the case. Robert Savage was sworn in and testified requesting a 29-foot variance from the required 40-foot front yard setback requirement for an addition; that the dwelling was built in 1914; that the new addition sits further back than the existing dwelling; that the addition is a first floor bedroom; that the addition is needed for his wife’s health problems; that the variance will not alter the character of the neighborhood; and that it is the minimum variance to afford relief.

The Board found that 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 variance be **granted since it meets the standards for granting a variance**. Vote carried 5 – 0.

Case No. 10907 – Walter & Joanne Cooper – east of Road 297 (Oak Orchard Road) northwest of Basin Road, being Lot 85 within Delaware Oyster Farms development.

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

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Mrs. Isaacs presented the case. Walter Cooper was sworn in and testified requesting a 0.8-foot variance from the required 30-foot front yard setback requirement for a manufactured home, a 0.3-foot variance from the required 5-foot side yard setback requirement for an open deck, and a 0.3-foot variance from the required 5-foot side yard setback requirement for an existing shed; that he purchased the property in 2007; that he was not aware of any encroachments until a survey was done; that building permits and Certificates of Compliances were issued for all structures on the lot; that it does not alter the character of the neighborhood; that it was not created by the Applicant; and that it is the minimum variance to afford relief.

The Board found that 4-parties 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. Mills, and carried unanimously that the variance be **granted since it meets the standards for granting a variance**. Vote carried 5 – 0.

Case No. 10908 – Gumboro Volunteer Fire Co., Inc. – west of Route 26 (Millsboro Highway) north of Road 424 (Pear Tree Road).

A variance from the front yard setback requirement.

Mrs. Isaacs presented the case. Davit Hutt, Attorney, was present on behalf of the Applicant, with Greg Justice and Scott Hoffman, who were sworn in and testified requesting a 20-foot variance from the required 100-foot setback requirement for an addition to the fire company; that the existing building was built in the 1960's; that the existing building encroaches 30-foot into the setback requirement; that the proposed addition will only encroach 20-foot into the setback requirement; that the proposed addition will be designed to allow the fire trucks to pull through from the back of the building; that the design prevents the trucks from having to back into the fire station from Route 26; that the variance will not alter the character of the neighborhood; that it will enable reasonable use of the property; that it will enhance response time; and that it is the minimum variance to afford relief.

The Board found that 10-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 variance be **granted since it will not alter the character of the neighborhood.**
Vote carried 5 – 0.

Case No. 10909 – New Covenant Presbyterian Church – northwest corner of Route 1 (Coastal Highway) and Road 268A (Dartmouth Drive).

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A special use exception for a billboard and a variance from the maximum height requirement.

Mrs. Isaacs presented the case. Rob Gibbs, Attorney, was present on behalf of the Applicant, with Paul Carey, who was sworn in and testified requesting a special use exception for a billboard and a 17-foot variance from the required 25-foot maximum height requirement for a billboard; that the proposed billboard will measure 12' x 48' and be 42-foot in height; that the proposed billboard will meet all required setback requirements; that the property is unique in size; that the proposed height is in keeping with other billboards in the area; that the configuration of the lot and access to the lot limits the type of use for this property; that the property is well suited for a billboard site; and that the property is under contract pending the approval of this request.

Sandra Spence was sworn in and testified in opposition to the application and stated that she lives in the area; that she feels the intersection is already a hazard and that the billboard will enhance this hazard; that she was involved in an automobile accident at this intersection; that there are too many billboards in the area; and that the only reason the property hasn't sold in the past is due to the poor economy.

In rebuttal, Rob Gibbs, stated that the property has a contract of sale pending this approval.

Motion by Mr. McCabe, seconded by Mr. Workman, and carried unanimously that the special use exception and the variance be **granted with the stipulation that the billboard be leased prior to issuance of the building permit, since it will not alter the character of the neighborhood, and since there have been other height variances granted in the area.**
Vote carried 5 – 0.

Case No. 10910 – Moheb Bashandi – northeast corner of Millsboro Highway and Boblin Court.

A variance from the side yard setback requirement.

Mrs. Isaacs presented the case. Moheb Bashandi was sworn in and testified requesting a 4.6-foot variance from the required 5-foot side yard setback requirement for an existing shed;

that he purchased the property in 2001; that a Certificate of Compliance was issued for the shed; that due to the existing septic system and trees it is not able to be moved into compliance; that he does not feel the shed is adversely affecting surrounding properties; that it will not alter the character of the neighborhood; and that it will be an extreme monetary hardship to move the shed into compliance.

Kristin Brittingham was sworn in and testified in opposition to the application and stated that she is the adjacent neighbor; that the shed is portable; that she has her property up for sale

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and has been told this could adversely affect the sale of her property; that she purchased the property in 2002; that a survey done and that is when she discovered the shed encroached; and that she placed a shed on her property within the County guidelines; and that it will be a hardship to her if her property does not sell.

The Board found that 3-parties appeared in support of the application.

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

Motion by Mr. Hudson, seconded by Mr. McCabe, and carried unanimously that the case be **tabled until December 19, 2011**. Vote carried 5 – 0.

OLD BUSINESS

Case No. 10039 – David and Susan Lilley – west of Route 22, east of Walnut Street, being Lot 36 within Bay City Mobile Home Park.

A variance from the maximum allowable lot coverage in a mobile home park.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to reconsider the case which has been tabled since April 19, 2010. Vote carried 5 – 0.

The Board discussed the case.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variance be **denied since it is not necessary since the Planning & Zoning Commission grandfathered all structures**. Vote carried 5 – 0.

Case No. 10018 – John DelRossi – east of Route 22, east of Berry Street, being Lot 3 within Bay City Mobile Home Park.

A variance from the maximum allowable lot coverage in a mobile home park.

The Board discussed the case which has been tabled since April 15, 2010.

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**.
Vote carried 5 – 0.

Case No. 10551 – John DelRossi – east of Route 22, east of Berry Street, being Lot 3 within Bay City Mobile Home Park.

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

The Board discussed the case which has been tabled since April 15, 2010 .

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. 10867 – Voyd & Betty Harmon – northeast of Road 310A (Warwick Road) approximately 1,282 feet west of Road 313A (Downs Landing Road).

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

The Board discussed the case which had been left open since September 26, 2011 for the Applicant to submit a survey.

Motion by Mr. McCabe, seconded by Mr. Hudson, and carried unanimously that the variance be **granted for a 4.67-foot variance 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. 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. Mills, seconded by Mr. Workman, and carried unanimously that the request for a time extension be **denied**. Vote carried 5 – 0.

Meeting Adjourned 10:08 p.m.