



BOARD OF ADJUSTMENT

AGENDAS & MINUTES

MINUTES OF DECEMBER 20, 2010

The regular meeting of the Sussex County Board of Adjustment was held on Monday, December 20, 2010, 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. Dean Malloy – Zoning Inspector, and Mrs. Kelly Passwaters – Recording Secretary.

Motion by Mr. Mills, seconded by Mr. McCabe, 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 December 6, 2010 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. 10741 – Schell Brothers- north of Road 302, south of Samuel Adams Drive, being Lot 119 within Independence development.

A variance from the side yard setback requirement.

Mr. Malloy presented the case. Mark Fitzgerald was sworn in and testified requesting a 0.9-foot variance from the required 10-foot side yard setback requirement; that the home is currently under construction; that the Civil Engineer overlooked the optional luxury owners bath on the plot plan when staking out the property; that the encroachment was discovered after the house was framed up; and that they have offered to create a landscaping buffer between the two homes.

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 was an honest mistake, since it enables reasonable use of the property, and since it will not alter the essential character of the neighborhood.** Vote carried 5 – 0.

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Case No. 10742 – Clean Energy USA, LLC- east of Route 30, 360 feet north of Road 297.

A variance from the front yard setback requirement.

Mr. Malloy presented the case. Dave Preston was sworn in and testified requesting a 38-foot variance from the required 40-foot front yard setback requirement for ground solar panels; that the panels were originally located back by the tree line; that when the panels were back by the tree's, they were only working at approximately 60%; that the panels were moved closer to the road; that they did not realize the property line did not start at the pavement; and that they had no other option to move the panels in order to generate energy production.

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 case be **Tabled for the applicant to provide a survey and for the office staff to provide an Aerial view of the parcel.** Vote carried 5 – 0.

Case No. 10743 – Michael and Robin Spann- north of Route 54, east of Laws Point Road, being Lot 31, Block F, Section B within Swann Keys development.

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

Mr. Malloy presented the case. Darryl Greer was sworn in and testified requesting a 0.9-foot variance from the required 10-foot front yard setback requirement and a 8.2-foot variance from the required 10-foot side yard setback requirement for a proposed home and HVAC unit; that the home will be a retirement home for the applicants; and that the shed has been removed.

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 the lots are small, since it will not alter the essential character of the neighborhood, and since other similar variances have been granted.** Vote carried 5 – 0.

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OLD BUSINESS

Case No. 10717 – Michael and Robin Spann- north of Route 54, east of Laws Point Road, being Lot 31, Block F, Section B within Swann Keys development.

A variance from the side yard setback requirement.

The Board discussed the case, which has been tabled since October 18, 2010.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be **denied.** Vote carried 5 – 0.

OTHER BUSINESS

Case No. 10546 – Diana Brown and Mark Middleton- south of Route 54, west of Maple Lane, being Lot 38, Subdivision 5, within Keen-Wik development.

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

Request for a time extension.

Motion by Mr. Hudson, seconded by Mr. McCabe, and carried unanimously that the request for a time extension be **granted for a period of eight (8) months.** Vote carried 5 – 0.

Meeting Adjourned at 7:45 P.M.