



BOARD OF ADJUSTMENT

AGENDAS & MINUTES

MINUTES OF DECEMBER 21, 2009

The regular meeting of the Sussex County Board of Adjustment was held on Monday December 21, 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. John Mills, Mr. Brent Workman and Mr. Jeff Hudson, with Mr. Richard Berl – Assistant County Attorney and staff members, Mr. Dean Malloy and Mrs. Kelly Passwaters – Recording Secretary.

Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously to approve the Revised Agenda with the correction that Case No. 10545 was withdrawn. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of the December 7, 2009 meeting. 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. 10541 – Paul and Mary Ellen Novak- north of Route 58B, south of Bayview Circle East, being Lot 113 within Bayview Landing development.

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

Mr. Malloy presented the case. Jerry Schaeffer was sworn in and testified on behalf of the applicant requesting a 2.8-foot variance from the required 40-foot front yard setback requirement for a through lot for a screen porch; that he would like to construct a 12' x 16' screen porch; that the screen porch cannot be turned on the lot to meet setbacks due to the 2nd story dormer; and that the lot is a through lot.

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, since it is a through lot, and since it is the minimum variance to afford relief.** Vote carried 5 – 0.

Case No. 10542 – Stephen and Tina Sellentin- north of Lighthouse Road, 148 feet east of Willow Lane, being Lot 6.

A variance from the rear yard setback requirement.

Mr. Malloy presented the case. Stephen Sellentin was sworn in and testified requesting a 6-foot variance from the required 10-foot rear yard setback requirement; that he purchased the property two (2) years ago; that there are two (2) non-conforming manufactured homes on the lot and a non-conforming shed; that he would like to construct an 8' x 24' enclosed porch; and that it is needed as protection from mosquitoes.

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

Mr. Malloy stated the office received 3 letters in support of 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. 10543 – Kenneth L. and Susan R. Fraiman- west of Road 277, west of Angola Road East, being Lot 14 and ½ Lot 13, Block N, Section 2 within Angola By The Bay development.

A variance from the front yard setback requirement.

Mr. Malloy presented the case. Norman Barnett, Attorney, testified on behalf of the applicant requesting a 4.9-foot variance from the required 30-foot front yard setback requirement for the dwelling and a 10.4-foot variance from the required 30-foot front yard setback requirement for an open porch; that the home was built in the 1970's; that it is not known when the front porch was added, but it is believed to be about thirty (30) years old; that the property was sold in March 2009 and the survey was approved by Sussex County as "existing lot survey only"; and that the property was re-sold in October of 2009 and when a survey was presented to Sussex County the violation was discovered.

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

Case No. 10544 – Virgil Baine- west of Road 371, 2,100 feet south of Road 370.

A special use exception to place a manufactured home on a medical hardship basis and to place a manufactured home for storage purposes.

Mr. Malloy presented the case. Virgil Baine was sworn in and testified requesting a special use exception to place a manufactured home on a medical hardship basis and to place a manufactured home for storage purposes; that the medical hardship was originally approved in 1983 but has since expired; that the hardship is needed for his sister; that he would like to use the third (3rd) manufactured home that is on the property for storage; and that there are three (3) campers on the property and he will be removing one of them.

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

Motion by Mr. Hudson, 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. Hudson, seconded by Mr. Mills, and carried unanimously that the case be **tabled until the January 4, 2010 meeting**. Vote carried 5 – 0.

Case No. 10545 – Frank and Nancy Starr- south of Road 271, south of Stephanie Court, being Lot 9, Block A within Henlopen Keys development.

A special use exception for a bed and breakfast.
WITHDRAWN DECEMBER 17, 2009.

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.

Mr. Malloy presented the case. Mark Middleton was sworn in and testified requesting a 4.9-foot variance from the required 30-foot front yard setback requirement, a 5.9-foot variance from the required 10-foot side yard setback requirement and a 5-foot

variance from the required 10-foot side yard setback requirement; that he purchased the property in 2008; that he would like to make it his permanent residence; that the variance is needed to accommodate a larger family; that he received approval from the Homeowners Association; and that the homes needs to be handicap accessible.

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

Motion my 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, since there was no opposition, and since it was approved by the Homeowners Association.** Vote carried 5 – 0.

Case No. 10547 – Christopher and Jennifer Rambo- west of Road 265, south of Molly B Road, being Lot 47 within Mallard Point development.

A variance from the side yard setback requirement.

Mr. Malloy presented the case. Christopher Rambo was sworn in and testified requesting a 0.6-foot variance from the required 15-foot side yard setback requirement for a detached garage; that the contractor removed the markers for the garage and replaced them in the incorrect place; and that Delmarva Pole Buidings constructed the garage.

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 was not created by the applicant, since it will not alter the essential character of the neighborhood, since it is the minimum variance to afford relief, and that a letter be sent to the contractor.** Vote carried 5 – 0.

Case No. 10548 – Jocelyn and Orvine E. Reidell, III- east of Route 22, east of Berry Street, being Lot 1 within Bay City Mobile Home Park.

A variance from the rear yard setback requirement and a variance from the maximum allowable lot coverage in a mobile home park.

Mr. Malloy presented the case. Jocelyn and Orvine Reidell were sworn in and testified requesting a 4.1-foot variance from the required 5-foot rear yard setback requirement for a deck and a 659.15-square-foot variance from the required 35% lot coverage requirement; that they purchased the manufactured home a few years ago; that they were told by Bay City that two (2) decks and a sunroom were included in the price

of the manufactured home; and that when the moratorium was placed they thought there improvements would be grandfathered in.

Ron Amadio was sworn in and testified in favor the application and stated that he is the president of the Homeowners Association; and that the Homeowners Association is in favor of the application.

John Delrossi was sworn in and testified in favor the application and stated that the applicant was put in this situation because of the landowner; and that he lives one house down from the applicant.

Dan Wein was sworn in and testified in opposition to the application and stated that he lives next door to the applicant; that the landowner is raising the lots and causing drainage problems; that the applicant is a contractor and knows the permit process; that the applicants lot has been raised three (3) feet about street level; that Bay City continues to fill lots with no concern for the drainage on lower level lots; that the applicant applied and received a building permit during the moratorium; that variance requests are justified on "hardship" and the applicants have not demonstrated a hardship; and that Lot 1 was suppose to be made a buffer.

Patricia Weyl was sworn in and testified in opposition to the application and stated that she is the Vice President of the Manufactured Home Homeowners Association; that the landowners place manufactured homes, and then apply for a variance; that the applicant received a building permit during the moratorium; that Lots 1 – 3 were not approved on the survey; that this is not a hardship; that the lower lots suffer the consequences due to the drainage problems; and that forty (40) homes in the park have drainage problems.

In Rebuttal, Mr. Reidell stated that Mr. Wein has two (2) apartments in his house; that he cannot stop high tide; that everybody gets flooded; and that Berry Street is not the only street that floods.

The Board found that 7 parties appeared in support of the application.

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

Mr. Malloy stated the office received 23 letters in support of the application.

Mr. Malloy stated the office received 2 letters in opposition to the application.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the case be **left open for the park owners to be subpoenaed**. Vote carried 5 – 0.

OTHER BUSINESS

Case No. 10466 – Bonita Sponsler and Harry Lartz- west of Road 327, being Lot 4 within Rolling Acres development.

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

This is a request for a re-hearing.

The Board discussed the request for a re-hearing.

Motion by Mr. McCabe, seconded by Mr. Workman, and carried unanimously that the case be **tabled until the January 4, 2009 meeting**. Vote carried 5 – 0.

Meeting Adjourned at 8:40 P.M.

