



BOARD OF ADJUSTMENT

AGENDAS & MINUTES

MINUTES OF FEBRUARY 1, 2010

The regular meeting of the Sussex County Board of Adjustment was held on Monday February 1, 2010, at 7:00 p.m. in the County Council Chambers, County Administrative 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 and Mrs. Jennifer Norwood – Recording Secretary.

Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously to approve the Agenda. Motion carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of January 25, 2010. 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. 10561 – C&K Builders, LLC – west of Road 274, west of Arnell Road, being Lot 49 within Old Landing development.

A variance from the rear yard setback requirement.

Mrs. Isaacs presented the case. Joseph Kokoszka was sworn in with James Fuqua, Attorney, on behalf of the application and testified requesting a 1.64-foot variance from the required 20-foot rear yard setback requirement for an existing tip out; that during construction of the new dwelling a change was made in the original construction plans to convert a window into a doorway; that this created a tip out in the plan that encroaches the rear yard setback requirement; that the rear yard is adjacent to the lagoon in the development; that the letters of opposition are concerned with flooding to their lots; and that this lot is unique due to the fact the lot is not as deep as other lots in the development.

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

Mrs. Isaacs stated that the office received 2 letters in opposition to the application.

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

Case No. 10562 – Telamon Corporation – south of Road 262, intersection of Road 291 and West Meadowview Drive, being Lots 1, 12 and 13, Section 2 within Coolspring Farms development.

A special use exception for a day care center.

Mrs. Isaacs presented the case. Gary Johnson was sworn in and testified requesting a special use exception for a day care center; that there is an existing 2700-square-foot building on the property; that a Head Start facility is needed in this area; that they currently bus children from the area to another facility; that First State Community Action currently runs a program on the site; that the two programs work together; that there are 29-parking spaces available on site; that the hours of operation will be Monday through Friday from 8:00 a.m. to 4:00 p.m.; that there will be approximately 12 employees; and that they will serve approximately 60-children.

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

Motion by Mr. Workman, seconded by Mr. McCabe, and carried unanimously that the case be **tabled until February 22, 2010**. Vote carried 5 – 0.

Case No. 10563 – Tapa Homes – southwest of Route 54, northeast of Lincoln Drive, being Lot 3 within Cape Windsor development.

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

Mrs. Isaacs presented the case. Brent Riley was sworn in and testified requesting a 0.6-foot variance from the required 10-foot side yard setback requirement for bay windows on the dwelling and a 0.5-foot variance from the required 10-foot rear yard setback requirement for an existing shed and an existing foundation for a detached garage; that the bay windows on the dwelling encroach into the setback requirement; that

the shed was on the lot when the owner purchased the property; that the owner of the property is building the detached garage; that he measured from an existing fence on the property for the detached garage and when the survey was completed for the dwelling the encroachment was discovered; that there are numerous variances in the development; that the shed can be moved into compliance; and that construction on the detached garage was stopped until after this hearing.

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

Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously that the variances be **granted with the stipulation that a building permit must be obtained for the existing shed and that the shed must be moved into compliance.**

Vote carried 5 – 0.

Case No. 10565 – David Seidl – east of Route One, 1.7 miles south of York Beach Road, being Unit 37 within Kings Grant development.

A variance from the side yard setback requirement.

Mrs. Isaacs presented the case. David Seidl was sworn in and testified requesting a 3.98-foot variance from the required 5-foot setback requirement for a proposed deck; that he was granted a variance in 2002 for an addition to the existing deck; that they want to extend that deck and square it up with existing decks; that this is the only deck in the development that is not squared off; that DNREC has no objection to the application; and that he submitted pictures.

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

Mrs. Isaacs stated that the office received 2 letters in opposition to the application and she read them into the record.

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 will enable reasonable use of the property.** Vote carried 5 – 0.

Case No. 10565 – Michael Fishman – east of Road 271, Mersey Drive, being Lot 281 within Canal Point development.

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

Mrs. Isaacs presented the case. Michael Fishman and Louis Zicarelli were sworn in and testified requesting a 3-foot variance from the required 10-foot side yard setback requirement and a 1-foot variance from the rear yard setback requirement for a proposed inground spa; that the proposed pool will measure 12'x21'; that the pool cannot be placed closer to the dwelling due to safety concerns; that the proposed location will allow plenty of room for the pool and not affect the surrounding neighbors; and that they submitted pictures.

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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 it will not alter the character of the neighborhood**.
Vote carried 5 – 0.

Case No. 10566 – D. Wayne Marshall and Patricia Gains – east of U.S. Route 113.

A variance from the side yard setback requirement.

Mrs. Isaacs presented the case. Margaret Brady, D. Wayne Marshall and Patricia Gaines were sworn in and testified requesting a 9.3-foot variance from the required 10-foot side yard setback requirement for an existing attached garage and a 2-foot variance from the required 5-foot side yard setback requirement for an existing shed; that the property was owned by their parents; that the dwelling and attached garage have been on the property for over 40-years; that they think the shed has been on the lot since 1973; that they feel they could move the shed into compliance; and that they submitted 2 letters in support of the application.

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. McCabe, and carried unanimously that the variances be **granted since it will not alter the character of the neighborhood**.
Vote carried 5 – 0.

Meeting Adjourned 8:10 p.m.