



BOARD OF ADJUSTMENT

AGENDAS & MINUTES

MINUTES OF FEBRUARY 11, 2008

The regular meeting of the Sussex County Board of Adjustment was held on Monday February 11, 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 Ms. Rebecca Trifillis – Assistant County Attorney and staff members, Mr. Norman Rickard, Mrs. Susan Isaacs and Mrs. Kelly Passwaters – Recording Secretary.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously to approve the Agenda with the correction that Case No. 10053 be withdrawn. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of January 28, 2008 as circulated. Vote carried 5 – 0.

Ms. Trifillis read a statement explaining how the Board of Adjustment meeting is conducted and the procedures for hearing the cases.

PUBLIC HEARINGS

Case No. 10050- James A. Russell- west of Shore Drive, being Lot 18, Block E within Lakeshores development.

A variance from the side yard setback requirement.

Mrs. Isaacs presented the case. James Russell was sworn in and testified requesting a 4.4-foot variance from the required 10-foot side yard setback requirement for second floor steps and a 0.3-foot variance from the required 10-foot side yard setback requirement for a garage apartment; that he also owns Lot 19; that the second floor steps encroach into the setback; and that they are wooden steps and used as a second exit for convenience only.

Ludwig Alberti was sworn in and testified in opposition to the application and stated he is the next door neighbor; that he would like the setback requirements to remain the same; that Mr. Russell had a survey done prior to construction; that Mr. Russell knew he built the steps within the setback; and that the steps are for a second exit only.

The Board found that 1 party appeared in support of the application.

The Board found that 1 party appeared in opposition to the application.

Motion by Mr. Mills, seconded by Mr. McCabe 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. Workman, seconded by Mr. Hudson, and carried unanimously that the case be **tabled until the February 25, 2008 meeting**. Vote carried 5 – 0.

Case No. 10051 – Brent and Margie Warner- north of Route 54, west of Blue Teal Road, being Lot 6, Block C within Swann Keys development.

A variance from the side yard setback requirements.

Mrs. Isaacs presented the case. Brent and Margie Warner were sworn in and testified requesting a 2.7-foot variance from the required 5-foot side yard setback requirement and a 4.2-foot variance from the required 10-foot side yard setback requirement; that they would like to replace the existing manufactured home; that they would like to make it handicap accessible; that making it handicap accessible would require a wider manufactured home; and that the manufactured home would measure 74' x 24'.

The Board found that 1 party 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 variances be **granted since it will not alter the essential character of the neighborhood**. Vote carried 5 – 0.

Case No. 10052 – Garth Troescher- northeast of Road 402A, south of Route 26.

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

Mrs. Isaacs presented the case. Garth Troescher was sworn in and testified requesting a 100-foot variance from the minimum 150-foot requirement for a parcel; that the parcel is 18 Acres; that the parcel is unique in shape; that the parcel has poor soil conditions; that he does not plan to remove any trees; that he would like to create four (4) lots; and that there is currently a driveway in place.

Diann McCahill was sworn in and testified in opposition to the application and stated that she is the next door neighbor; that they have chicken houses; and that they cannot place any homes towards the back of the lots without removing trees.

Brian McCahill was sworn in and testified in opposition to the application and stated that he would like the road frontage to remain the same.

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

The Board found that 4 parties appeared in opposition to the application.

Motion by Mr. Mills, seconded by Mr. Hudson, 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 variance be **denied since it does not meet the standards for granting a variance**. Vote carried 5 – 0.

Case No. 10054 – Brian Wong- west of Dodd Avenue, being Lots 30 & 31, Block B within Ann Acres development.

A special use exception to place a windmill.

Mrs. Isaacs presented the case. Tom Colucci was sworn in and testified requesting a special use exception to place a windmill; that it would measure 42-feet in height; that the windmill will be placed to the rear of the property; and that the proposed windmill will not generate any sound until it reaches 18 miles per hour.

Raymond Smethhurst was sworn in and testified in opposition to the application and stated that he owns the adjacent property; that if everybody had a windmill that it would look like a windmill farm; that he would like to know the decibel rating; that the lots are too small; and that he questions the aesthetics and what it would do to the property value.

In rebuttal, Tom Colucci stated that renewable energy is personal preference only; that he explained the decibel rating; and the he is speaking to contractors in the area about installing windmills on properties.

The Board found that 2 parties appeared in support of the application.

The Board found that 1 party appeared in opposition to the application.

Motion by Mr. Mills, seconded by Mr. McCabe, 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. Workman, and carried unanimously that the case be **tabled until the February 25, 2008 meeting**. Vote carried 5 - 0.

Case No. 10055 – Bay Forest LLC- east of Skimmer road, north of Bay Forest Drive, being Lot 62, Phase 1 within Bay Forest Club.

A special use exception to place a manufactured home type structure as a sales office.

Mrs. Isaacs presented the case. David Dombert was sworn in and testified requesting a special use exception to place a mobile home type structure as a temporary sales trailer; that it will be a temporary sales trailer for 12 months to 18 months; that it will be handicap accessible; that it will measure 24' x 56'; and that the lot will be landscaped.

The Board found that 1 party 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 special use exception be **granted for a period of 18 months since it will not alter the essential character of the neighborhood**. Vote carried 5 – 0.

Case No. 10056 – Edward Swiatek- west of Route One, north of Route 9.

A special use exception to place a billboard and a variance from the setback requirements and maximum size requirements for a billboard.

Mrs. Isaacs presented the case. David Myers, present on behalf of the applicant, was sworn in and testified requesting a special use exception to place a billboard, a 192-foot variance from the required 300-foot setback requirement from a structure not on the property, a 101-foot variance from the required 300-foot setback requirement from a dwelling not on the property, a 44-foot variance from the required 50-foot side yard setback requirement, a 372-square foot variance from the allowed 300-square foot per side and a 135-foot variance from the required 300-foot setback requirement from a dwelling not on the property; that the adjacent parcels are zoned C-1; that the home on the property where they want to place the billboard will be demolished; and that the billboard will be two (2) sided.

The Board found that no parties appeared in support of or 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, that Chairman referred back to this case. Motion by Mr. Hudson, seconded by Mr. Workman, and carried unanimously that the case be **tabled until the February 25, 2008 meeting**. Vote carried 5 – 0.

Case No. 10057 – Ryan Homes- north of Route One, 1,220 feet northwest of Road 273, being Units B, D, F and H within Rehoboth Crossing development.

A variance from the rear yard setback requirements.

Mrs. Isaacs presented the case. Mike Ciabattoni was sworn in along with Heidi Balliet, Attorney, present on behalf of the applicant and testified requesting a 2-foot variance from the required 10-foot rear yard setback requirement for Units B, D, F and H; that it is an eight (8) unit townhouse; that it is three (3) stories' in height; that they are staggered units; and that the decks for units B, D, F and H encroach into the setback.

Mrs. Isaacs stated that the office received 1 letter 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 essential character of the neighborhood**. Vote carried 5 – 0.

Case No. 10058 – Anthony and Antoinetta Lance- south of Angola Road, northeast of Woodland Circle, being Lot 24, Block T, Section 5 within Angola By The Bay development.

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

Mrs. Isaacs presented the case. Anthony Lance was sworn in and testified requesting a 7.5-foot variance from the required 20-foot rear yard setback requirement, a 4.2-foot variance from the required 10-foot side yard setback requirement and a 4.9-foot variance from the required 30-foot front yard setback requirement; that he originally wanted to place a second floor but now has decided to remodel only due to the cost; that he purchased the home in 1988; and that it is an undersized lot.

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

Motion by Mr. Hudson, seconded by Mr. McCabe, and carried unanimously that the variances be **granted since it will not alter the essential character of the neighborhood and since it enables reasonable use of the property.** Vote carried 5 – 0.

Case No. 10059 – James M. Larrimore, Sr.- east of Road 228, 1, 450 feet north of Route 38.

A special use exception to retain a manufactured home on a medical hardship basis.

Mrs. Isaacs presented the case. James Larrimore, Jr. was sworn in and testified requesting a special use exception to retain a manufactured home on a medical hardship basis; that he said the inspector went to the site to verify that the manufactured home was still there and reported back to the office that it had been removed; that the manufactured home is still there; that it measures 14' x 70'; and that it is for his father.

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 variance be **granted for a period of 2 years since it will not substantially affect adversely the uses of adjacent and neighboring properties.** Vote carried 5 – 0.

James Larrimore, Jr. asked the Board to be refunded at least half of the filing fee due to an error.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the applicant be **refunded in the amount of two hundred dollars (\$200.00).** Vote carried 5 – 0.

Case No. 10060 – Douglas and Kara Ritter- northeast of Road 298, east of Canal Drive, being part of Lots 1, 3, 5 and 7 within Short Hills development.

A variance from the rear yard setback requirement.

Mrs. Isaacs presented the case. Douglas Ritter was sworn in and testified requesting a 12.5-foot variance from the required 20-foot rear yard setback requirement; that he would like to cover the existing stoop the encroaches into the setback.

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

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the variance be **granted since it meets the standards for granting a variance.** Vote carried 5 – 0.

Meeting Adjourned @ 8:45p.m.