



# BOARD OF ADJUSTMENT

## AGENDAS & MINUTES

### MINUTES OF JANUARY 26, 2009

The regular meeting of the Sussex County Board of Adjustment was held on Monday January 26, 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, Mrs. Susan Isaacs and Mrs. Kelly Passwaters – Recording Secretary.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Revised Agenda as circulated. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously to approve the Minutes of December 15, 2008 meeting and the January 5, 2009 meeting 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. 10333 – Custom Framers-** west of Route One, east of Dodd Avenue, within Seabreeze development.

A variance from the front yard setback requirement.

Mrs. Isaacs presented the case. William Peden was sworn in and testified requesting a 14.1-foot variance from the required 30-foot front yard setback requirement; that the front of the house faces Dodd Avenue; that it is the only house that faces Dodd Avenue; that the laundry room and attached shed were placed approximately four (4) years ago; and that a certificate of occupancy was issued.

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. McCabe, seconded by Mr. Workman, and carried unanimously that the variance be **granted since there was no opposition, since it is the minimum variance to afford relief, since it will not alter the essential character of the neighborhood and since many variances have been granted in the area.** Vote carried 5 – 0.

**Case No. 10334 – Delaware Division of Fish and Wildlife-** north of Road 494 (Old Sharptown Road), 4,600 feet west of Road 493 (Mt. Pleasant Road).

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

Mrs. Isaacs presented the case. Robert Gano was sworn in and testified requesting a special use exception to place a manufactured home type structure as an office; that the office trailer will measure 10' x 40'; that it will be located west of the fenced in compound; that it will be a brand new trailer; and that it will be used for three (3) employees.

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 special use exception be **granted for a period of 5 years since it will not substantially affect adversely the uses of adjacent and neighboring property.** Vote carried 5 – 0.

**Case No. 10335 – Thomas and Patricia Cassat-** southeast intersection of Road 390A and Road 388.

A special use exception to place a windmill.

Mrs. Isaacs presented the case. Thomas and Patricia Cassat and Greg Menoche were sworn in and testified requesting a special use exception to place a windmill; that the windmill will measure 45-feet in height; that it will not be attached to the house; that the windmill is rated at 140 mph; that they believes it will increase the property value; and that the windmill is being placed in the best spot to get the most wind.

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 special use exception be **granted with the stipulation that a certification of**

**installation be submitted and since it will not alter the essential character of the neighborhood.** Vote carried 5 – 0.

**Case No. 10336 – First State Signs-** west of Road 277.

A special use exception to place an off-premise directional sign and a variance from the maximum allowed square footage for a directional sign.

Mrs. Isaacs presented the case. Dale McCalister and Sharon Reed were sworn in and testified requesting a special use exception to place an off-premise directional sign and a 26-square foot variance from the required 6-square foot per side; that the sign will measure 4' x 8'; that the sign is one sided; and that the sign will be located approximately 0.5 – 1.5 miles from the sub-division it will be advertising.

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 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 variance be **granted for a period of one (1) year since it will not substantially affect adversely the uses of adjacent and neighboring properties and since it will not alter the essential character of the neighborhood.** Vote carried 5 – 0.

**Case No. 10337 – First State Signs-** south of Road 280B.

A special use exception to place an off-premise directional sign and a variance from the maximum allowed square footage for a directional sign.

Mrs. Isaacs presented the case. Dale McCalister and Sharon Reed who were sworn in at the previous hearing testified requesting a special use exception to place an off-premise directional sign and a 26-square foot variance from the required 6-square foot per side.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to incorporate the testimony from the previous hearing. Vote carried 5 – 0.

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 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. McCabe, and carried unanimously that the special use exception and variance be **granted for a period of one (1) year since it will not substantially affect adversely the uses of adjacent and neighboring properties and since it will not alter the essential character of the neighborhood.** Vote carried 5 – 0.

**Case No. 10338 – First State Signs-** northwest corner of Road 280B and Road 277.

A special use exception to place an off-premise directional sign and a variance from the maximum allowed square footage for a directional sign.

Mrs. Isaacs presented the case. Dale McCalister and Sharon Reed who were sworn in at the previous hearing testified requesting a special use exception to place an off-premise directional sign and a 26-square foot variance from the required 6-square foot per side.

Motion by Mr. Hudson, seconded by Mr. Mills, and carried unanimously to incorporate the testimony from the previous hearing. Vote carried 5 – 0.

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 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 variance be **granted for a period of one (1) year since it will not substantially affect adversely the uses of adjacent and neighboring properties and since it will not alter the essential character of the neighborhood.** Vote carried 5 – 0.

**Case No. 10339 – Service Glass Co., Inc.-** southeast corner of Road 556 and Route 20.

A special use exception to retain a manufactured home type structure as an office.

Mrs. Isaacs presented the case. Robert and Michelle Booth were sworn in along with James Sharp, Attorney, and testified requesting a special use exception to retain a manufactured home type structure as an office; that the manufactured home is used for office purposes only; that the manufactured home was placed on a emergency basis in

2006 due to a flood; that the manufactured home has no bathroom or kitchen; and that they received a violation notice.

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 special use exception be **granted with the stipulation that skirting be installed around the bottom and that a building permit be obtained and since it will not substantially affect adversely the uses of adjacent and neighboring properties.** Vote carried 5 – 0.

**Case No. 10340 – Jeffrey and Linda Keller-** north of Road 226.

A variance from the rear yard setback requirement.

Mrs. Isaacs presented the case. Jeffrey Keller was sworn in and testified requesting an 18.5-foot variance from the rear yard setback requirement; that he purchased the property in 1981; and that he was not aware the house encroached into the setback when she purchased it.

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

**OLD BUSINESS**

**Case No. 10319 – AT & T-** northwest of Road 490A, southeast of Nanticoke River.

A special use exception to erect a 180 foot telecommunications tower.

The Board discussed the case, which has been tabled since December 15, 2008.

Mr. Berl stated a motion was made at the December 15, 2008 meeting that clearly left the record open until January 12, 2009 for both parties to submit written information on the effect the telecommunications tower would have on property value. The only written information received was two (2) appraisals that were submitted by Mr. Hardesty. An additional submission was submitted that went well beyond the limits of the motion and was more of an argument. A letter was also received by Ms. Pamela Scott, Attorney, but was not received by the January 12, 2009 due date.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the special use exception be **denied since it will substantially affect adversely the uses of adjacent and neighboring properties.** Vote carried 5 – 0.

**Case No. 10323 – Irene Hill-** northwest of Route 16, 582 feet southwest of Route 22A.

A special use exception for determination of existence of farm use.

The Board discussed the case, which has been tabled since January 5, 2009.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the special use exception be **granted since it has been determined the farm has been in existence since the 1970's.** Vote carried 5 – 0.

**Meeting Adjourned at 8:30 P.M.**

