



Board of Adjustment

Agendas & Minutes

MINUTES OF JULY 2, 2007

The regular meeting of the Sussex County Board of Adjustment was held on Monday July 2, 2007, 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. Norman Rickard, Mr. Russell Warrington, Ms. Kelly Eaton – Recording Secretary.

Motion by Mr. Hudson, seconded by Mr. McCabe, and carried unanimously to approve the Revised Agenda with the correction to combine Old Business Case No. 9831 with Case No. 9874. Vote carried 5 – 0.

Motion by Mr. Hudson, seconded by Mr. Workman, and carried unanimously to approve the Minutes of June 18, 2007 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. 9874 & 9831 – JoAnn Evans- west of Road 431, 0.3 mile southwest of Road 329 (West Piney Grove Road).

A variance from the rear yard and side yard setback requirements for a commercial dog kennel and a special use exception for a commercial dog kennel.

Mr. Rickard presented the case. JoAnn Evans was sworn in and testified requesting a 180-foot variance from the required 200-foot rear yard setback requirement for a commercial dog kennel, a 145-foot variance from the required 200-foot side yard setback requirement for a commercial dog kennel, a 180-foot variance from the required 200-foot side yard setback for an open pen and a 70-foot variance from the required 200-foot side yard setback requirement for an open pen; that it will be a daycare for dogs; that it will not exceed 15 dogs; that the dogs will stay inside the building; that they will only go outside in a fenced in area to play; that it will be open from 7:00 a.m. – 5:30 p.m.; and that the building is already built.

By a show of hands 1 party appeared in support of the application.

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

Motion by Mr. Hudson, seconded by Mr. McCabe, and carried unanimously that the variances be **granted for Case No. 9874 & Case No. 9831 since it will not affect the uses of adjacent and neighboring properties.** Vote carried 5 – 0.

Case No. 9875 – Edward S. Hall and Kevin P. Burns- south of F. Benson Street, being Lot 10 within Killen's Addition to Rehoboth.

A variance from the minimum square footage requirement for multi-family structures.

Mr. Rickard presented the case. Heidi Balliet, Attorney, present on behalf of the applicant, testified requesting a 1,963.34-square foot variance from the required 3,630-square foot per unit; that the property was purchased in September 2005; that the owners would like to have 3 separately owned units; that the size and shape would not change; and that other variances have been approved in the area.

H. Lloyd Alexander was sworn in and testified in opposition to the application and stated that he is representing the residents on George Street; that he has been a part-time resident for 30 years; that he does not want to see the expansion or extra parking; and that he is not opposed to the existing use.

Charles Covington was sworn in and testified in opposition to the application and stated that he has been a part-time resident on George Street for the past 30 years; and that parking is a problem on George Street.

By a show of hands 2 parties appeared in opposition to the application.

By a show of hands 1 party appeared in support of 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. 9876 – S & E Gallo Family Limited Partnership- intersection of Route One and Bridge Road, being Lot 3 and part of Lot 2 within Middlesex Beach.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Betty Gallo was sworn in and testified requesting a 20-foot variance from the required 20-foot landscaping buffer requirement; that she purchased the property a couple of years ago; that it is in an overlay zone; that she would like to make 13 parking spaces; and that it is a corner lot.

Joe Reardon was sworn in and testified in opposition to the application and stated that he is the past president of the Homeowners Association; that he does not want to see Route 1 beach access closed off; that it is the only pedestrian walkway down Bridge Road to the beach; that he is opposed to the building size; and that the Homeowners Association was not notified of the public hearing.

David Taylor was sworn in and testified in opposition to the application and stated that he would like to know where the entrance and exit would be.

By a show of hands 6 parties appeared in opposition to the application.

Mr. Rickard stated that the office received 39 letters in opposition to the application.

Motion by Mr. McCabe, seconded by Mr. Workman, and carried unanimously that the case be **tabled until July 16, 2007 meeting**. Vote carried 5 – 0.

Case No. 9877 – S & E Gallo Family Limited Partnership- west of Road 268, 200 feet south of Road 269.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Andrew Ratner was sworn in and testified requesting a 26-foot variance from the required 60-foot front yard setback requirement and a 0-foot variance for an existing shed; that variances were approved in August 2005; that construction was never started; that they would like the shed to remain on the property; and that 2 other buildings exist on the property.

By a show of hands 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. Hudson, 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. 9878 – John P. Dinsmore- south of Road 312, being Lot 22 within Riverdale.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Sue Masciandro was sworn in on behalf of the applicant and testified requesting a 5-foot variance from the required 10-foot side yard setback requirement; that they purchased the home in 1987; that the home was raised above flood level in 1989; that the shed is attached to the home; that they would like to tear down the shed and build a new one to match the level of the home; that they would like to add a ½ bath; and that the neighbors are not opposed.

By a show of hands 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. Hudson, 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. 9879 – King and Carol Fox- west of Wilson Avenue, being Lot 27 within Cape Windsor development.

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

Mr. Rickard presented the case. Stacey Fisher was sworn in and testified requesting a 5-foot variance from the required 10-foot side yard setback requirement, a 10-foot variance from the required 20-foot rear yard setback requirement, and a 6-foot variance from the required 7-foot side yard setback requirement for HVAC units; that they are building a new home; that a variance is needed for the HVAC units; and that Cape Windsor approved a 15-foot variance.

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 other variances have been approved in the development.** Vote carried 5 – 0.

Case No. 9880 – Virginia J. Scott and Nicole Strike- east of Bryan Drive, being Lot 181 within Midway Estates.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Virginia Scott was sworn in with Daniel Myers, Attorney, present on behalf of the applicant, and testified requesting a 1.1-foot variance

from the required 10-foot side yard setback requirement; that the home was purchased in 2005; that the home has been conveyed 5 times; and that other variances have been granted in area.

By a show of hands 1 party appeared in support of the application.

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

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

Case No. 9881 – Margaret A. Rowe- southeast of Road 571, 1.11 mile south of Road 577, being Lot 28 within Smithville Estates.

A variance from the front yard setback requirement and a special use exception to retain a manufactured home for storage.

Mr. Rickard presented the case. Robert Rowe was sworn in and testified requesting a 12-foot variance from the required 40-foot front yard setback requirement and a special use exception to retain a mobile home for storage; that it measures 14 x 65; that the home cannot be moved due to electric and a T.V antenna; and that they would like to use the old mobile home for storage.

By a show of hands 2 parties appeared in support of the application.

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

Motion by Mr. Workman, 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. Workman, seconded by Mr. Hudson, and carried unanimously that the variance and special use exception be **granted with the stipulation that the mobile home must be gutted.** Vote carried 5 – 0.

Case No. 9882 – Dwayne and Valerie Wiltbank- northwest of Road 302, 2,186 feet northeast of Road 301.

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

Mr. Rickard presented the case. Dwayne and Valerie Wiltbank were sworn in and testified requesting a special use exception to retain a manufactured home on a medical hardship basis; that the hardship was approved in 1999; and that it will be for there brother-in-law.

By a show of hands 1 party 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. Hudson, and carried unanimously that the special use exception be **granted for a period of 2 years and since it will not substantially affect adversely the uses of adjacent and neighboring properties**. Vote carried 5 – 0.

OLD BUSINESS

Case No. 9867 – Gordon and Wendy Kautz- north of Route 54, east of Keen Wik Road, being ½ Lots 15 and 17, Block G, Subdivision 1 within Keen Wik development.

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

The Board discussed the case, which has been tabled since June 18, 2007.

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**. Vote carried 5 – 0.

ELECTION OF OFFICERS

Mr. Rickard opened the nominations for Chairman.

Motion was made by Mr. McCabe and seconded by Mr. Mills to nominate Mr. Callaway as Chairman.

There was a consensus that the nomination for Chairman be closed.

Nominations for Chairman were closed.

Motion was adopted to nominate Mr. Callaway as Chairman; 5 yea

Vote by roll call:

Mr. McCabe	-	yea
Mr. Workman	-	yea
Mr. Hudson	-	yea
Mr. Mills	-	yea
Mr. Callaway	-	yea

Mr. Rickard opened the nominations for Vice Chairman.

Motion by Mr. Mills and seconded by Mr. Hudson to nominate Mr. McCabe for Vice Chairman.

There was a consensus that the nominations for Vice Chairman be closed.

Motion was adopted to nominate Mr. McCabe as Vice Chairman; 5 yea

Vote by roll call:

Mr. Hudson	-	yea
Mr. Mills	-	yea
Mr. Callaway	-	yea
Mr. Workman	-	yea
Mr. McCabe	-	yea

The meeting was turned over to Mr. Callaway, the new Chairman.

Motion was made by Mr. Mills and seconded by Mr. Hudson to appoint Mr. Rickard as Secretary to the Board. Vote carried 5 – 0.

Meeting Adjourned 8:50 p.m.