



BOARD OF ADJUSTMENT

AGENDAS & MINUTES

MINUTES OF JUNE 1, 2009

The regular meeting of the Sussex County Board of Adjustment was held on Monday June 1, 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. McCabe, seconded by Mr. Mills, and carried unanimously to approve the Revised Agenda as circulated. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of May 18, 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. 10407 – MBG-1, LLC- west of Road 336, 4,995 feet south of Road 335a.

A variance from the minimum square footage requirement for a parcel.

Mrs. Isaacs presented the case. G. Marvin Steen was sworn in and testified requesting a 9,875-square foot variance from the 20,000-square foot requirement for new lots on central sewer; that the lots will have central sewer; that he would like each lot to be 15,000-square feet; that he would like to sell a land/home package for \$200,000; that his brother owns the adjacent sub-division; and that he could meet the 20,000-square foot requirement but he would lose three (3) lots in the process.

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 variance be **denied since it does not meet the standards for granting a variance**. Vote carried 5 – 0.

Case No. 10408 – Flexera, Inc.- west of Route One, south of Route 50I.

A special use exception to place a windmill.

Mrs. Isaacs presented the case. Finn McCabe, Robert Light and Ed Levendowski were sworn in and testified requesting a special use exception to place a windmill; that the windmill will be a 3.7 Sky Stream model; that it will be a horizontal windmill; that they would like to place two (2) windmills in two (2) different locations; that they will be placed on a large tract of State owned land that is adjacent to the Indian River Inlet; that the windmills will be mounted on 45-foot poles; that they will produce sound in the 50-decible range; that they will not affect the bird population; that there are no neighboring properties; that 80-85% of the energy will be generated by solar and wind power; and that the US Coast Guard located across the street from the possible location of the windmills stated it will not affect there helicopter flight operations.

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

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

Mrs. Isaacs stated the office received 3 letters in opposition to the application.

Motion by Mr. Mills, seconded by Mr. Workman and carried unanimously that the special use exception be **granted since it will not substantially affect adversely the uses of adjacent and neighboring properties**. Vote carried 5 – 0.

Case No. 10409 – Delaware Renewable Energy- northeast of Route One, 180 feet northwest of Road 270A, being Parcels A and B.

A special use exception to place a windmill.

Mrs. Isaacs presented the case. Jason Topercer and Mark Willhoite were sworn in and testified requesting a special use exception to place a windmill; that the windmill will be a Sky Stream model; that it will be mounted on a 45-foot pool; that the windmill will generate power for an office building; and that they submitted an engineer report.

Adeline Borth was sworn in and testified in opposition to the application and stated that she feels the windmill will add to the industrial look of the property.

Lewis Kirschner was sworn in and testified in opposition to the application and stated the entrance to the office building has heavy equipment and trash bins; that the windmill will be an eyesore; that it will affect property value; and that he questions how it will affect new sidewalks that are to be placed in the future.

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

The Board found that 2 parties appeared 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, the Chairman referred back to the case. Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the special use exception be **denied**. Vote carried 5 – 0.

Case No. 10410 – Harrison F. Elliott- north of Road 475 and west of Road 476.

A variance from the minimum acreage requirement to place an on-farm manufactured home.

Mrs. Isaacs presented the case. Harrison Elliott was sworn in and testified requesting a 2.99-acre variance from the required 10-acre requirement to place a single wide mobile home; that he would like to place a singlwide trailer to be used as a tenant home; that it measures 14' x 70'; and that the year of the trailer is a 1995.

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 variance be **granted since it will not alter the essential character of the neighborhood, since it enables reasonable use of the property, since it is unique and since it is the minimum variance to afford relief**. Vote carried 5 – 0.

Case No. 10411 – Bret and Melinda Shue- south of Route 54, northwest of Maple Lane, being Lot 39 within Keenwick On The Bay Subdivision 5.

A variance from the front yard setback requirement.

Mrs. Isaacs presented the case. Bret Shue was sworn in and testified requesting a 5-foot variance from the required 30-foot front yard setback requirement for a proposed addition; that he would like to place a small addition on his garage so he can actually use it; and that the previous variance approval has nothing to do with this application.

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 and since several variances have been granted in the area.** Vote carried 5 – 0.

Case No. 10412 – Anna R. Ward- intersection of Route 20A and Road 486A.

A variance from the minimum square footage requirement for a parcel.

Mrs. Isaacs presented the case. Anna and Donald Ward were sworn in and testified requesting a 4,810-square foot variance from the required 32,670-square foot requirement for a parcel; that they would like to sub-divide 1.38 acres; that they would like to donate one of the lots to Habitat for Humanity; that the lots are not located at a busy intersection; and that the lots will use gravity septic systems.

Motion by Mr. Hudson, seconded by Mr. McCabe, and carried unanimously to hear the case due to the new findings presented.

Anna and Donald Ward stated the parcel has road frontage; that it is unique in shape; that it cannot be developed into two (2) lots without a variance; that it is located adjacent to a cemetery; and that most properties in the area are similar in size.

Richard Faull was sworn in and testified stating that he has known the Ward family for several years; and that the homes are ideal for single family homeowners.

Jeff Neithammer was sworn in and testified stating that the homes that will be placed will meet all setback requirements.

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.

Case No. 10413 – Epworth United Methodist Church- southeast of Road 271, 975 feet northeast of Route One.

A special use exception for a day care facility.

Mrs. Isaacs presented the case. Rose Marie Barcellona was sworn in and testified requesting a special use exception for a day care facility; that currently the Pre-School has already been operating for one (1) year; that they were not aware they needed approval from the Board to operate; that the Boys & Girls club will operate in the church during the summer; that currently over 100 families use the Pre-School program; and that currently 80 families are enrolled for the Boys & Girls Club for the summer.

The Board found that 6 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 special use exception be **granted since it will not substantially affect adversely the uses of adjacent and neighboring properties.** Vote carried 5 – 0.

Case No. 10414 – Daniel F. Etheridge – northwest of Road 279, 1,081 feet northwest of Oak Drive, being Lot 12 within Eugene D Bookhammer development.

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

Mrs. Isaacs presented the case. Daniel and Marcy Etheridge were sworn in and testified requesting a 49.28-foot variance from the required 150-foot lot width requirement for a parcel and a 49.46-foot variance from the required 150-foot lot width requirement for a parcel; that they have owned the property since 2003; that they would like to subdivide the parcel; that the existing home will be removed; that the new home will be placed on Parcel A; and that the lots in the development are 100-foot wide.

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. Mills, seconded by Mr. Hudson and carried unanimously that the variance be **granted since it is unique, since it was not created by the applicant, and since it is the minimum variance to afford relief.** Vote carried 5 – 0.

Case No. 10415 – Michael and Cheryl Tirrell- south of Road 338, 2,640 feet west of Road 82.

A special use exception to have a tent for special purposes to exceed three (3) days.

Mrs. Isaacs presented the case. Michael and Cheryl Tirrell were sworn in and testified requesting a special use exception to have a tent for special purposes to exceed three (3) days; that they would like to erect a temporary tent for the purpose of an outdoor church service; that they service will be held from July 27, 2009 through August 1, 2009;

that the service will run from 7:00 P.M. to 10:00 P.M.; that there will be approximately 100-150 people in attendance; that they have sufficient parking; and that they are surrounded by a tree buffer.

The Board found that 9 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. Hudson and carried unanimously that the special use exception be **granted since it will not substantially affect adversely the uses of adjacent and neighboring properties.** Vote carried 5 – 0.

OLD BUSINESS

Case No. 10354 – Jerry E. Yates- east of Second Street, 27 feet south of Providence Road.

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

The Board discussed the case, which has been tabled since April 20, 2009.

Motion by Mr. Hudson, 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. 10400 – Flexera, Inc.- south of Lighthouse Road, east of Roosevelt Avenue, being Lot 28, Block 7 within Cape Windsor development.

A special use exception to place a windmill.

The Board discussed the case, which has been tabled since May 18, 2009.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the case be **tabled until July 6, 2009.** Vote carried 5 – 0.

Case No. 10402 – Sea Breeze, LP- south of Route One, northwest of Road 271, being Lots H5, H7, H9, H11 and H13 within Sea Air Mobile City Mobile Home Park.

A variance from the 50' buffer requirement in a mobile home park.

The Board discussed the case, which has been tabled since May 18, 2009.

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.

OTHER BUSINESS

Case No. 10125 – Jennifer Ellis and Antoine Trammell- north of Route 9, west of Ward Avenue, being Lot 5, Block 2 within Delaware Sand Company development.

A special use exception to place a manufactured home.

This is a request for a time extension.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the request for a time extension be **granted for 1 year**. Vote carried 5 – 0.

Case No. 10066 – Richard Roof, Jr.- northeast of U.S. Route 13, being Lot 3 and 4 within James R. Lowry Subdivision.

A variance from the side yard setback requirement and the maximum square footage requirement for a billboard.

This is a request for a time extension.

The Board stated that since it has passed the 1 year date, the Board cannot consider the request.

Meeting Adjourned at 9:00 P.M.

