



BOARD OF ADJUSTMENT

AGENDAS & MINUTES

MINUTES OF JUNE 15, 2009

The regular meeting of the Sussex County Board of Adjustment was held on Monday June 15, 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. Workman, 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 June 1, 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. 10416 – Greg and Kathy Junker- north of Road 58B, south of Bayview Circle East, being Lot 111 within Bayview Landing development.

A variance from the rear yard setback requirement.

Mrs. Isaacs presented the case. Jerry Schaeffer was sworn in and testified on behalf of the applicant requesting a 2.11-foot variance from the required 40-foot rear yard setback requirement; that the lot is a thru lot; that he would like to construct a 14' x 16' deck and a 10' x 16' screen porch; and that the dwelling is approximately one (1) year old.

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 is a thru lot, since it will not alter the essential**

character of the neighborhood and since it is the minimum variance to afford relief.
Vote carried 5 – 0.

Case No. 10417 – Abraham Lincoln Jones- east of Route One, south of Norwood Street, being Lots 64 and 80 within West Rehoboth development.

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

Mrs. Isaacs presented the case. Alonzo Harris was sworn in and testified requesting a 1,875-square foot variance from the required 10,000-square foot lot size requirement.

Mr. Berl stated that a certificate of occupancy was issued on the dwelling in 1972. Mr. Berl also stated that the dwelling is over the property line and that the applicant wants to shift the property line to accommodate the setbacks.

Motion by Mr. Mills, seconded by Mr. Hudson and carried unanimously that the case be re-heard. Vote carried 5 – 0.

Alonzo Harris stated the house was built in the early 1970's; that he would like to move the property line to avoid the encroachment; and that his father owns the property to the rear.

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

Mrs. Isaacs stated the office received 9 letters 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. 10418 – Malone's Bayside Marina/Mario Malone- north of Route 22, being Lot 42 within Malone's Mobile Home Park.

A special use exception to place a recreational vehicle in a mobile home park and a variance from the minimum lot size requirement for a manufactured home.

Mrs. Isaacs presented the case. Mario Malone was sworn in and testified requesting a 130-square foot variance from the required 450-square foot size requirement

for a mobile home; that it is a old mobile home park; that the lots are small; that he would like to place a 15' x 44' camper on Site 29; that Site 29 is a manufactured home site; and that the camper will be skirted and made to look like a permanent structure.

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

Case No. 10419 – Juanita Bibbins- west of Road 216, 200 feet north of Route 30.

A variance from the rear yard setback requirement.

Mrs. Isaacs presented the case. Jermaine Butler was sworn in and testified on behalf of the applicant requesting a 15-foot variance from the required 20-foot rear yard setback requirement for a proposed dwelling; that the applicant realized after she purchased the lot that the home she picked out would not fit; that the septic system will be located in the front yard; that the applicant would still need a variance even if she chose a different style home; and that the lot measures 100' x 100'.

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

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

Case No. 10420 – Alissa Rosenstein- south of Route 22, west of Brockton Pass, being Unit B10-6 within Fairfield At Long Neck development.

A variance from the separation requirement between units.

Mrs. Isaacs presented the case. Alissa Rosenstein was sworn in and testified requesting a 10-foot variance from the required 40-foot separation requirement between buildings; that she would like to construct a deck; that she received an approval letter from the Homeowners Association; and that the deck will measure 10' x 20'.

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

Case No. 10421 – Richard Nelson- south of Cannon Street, west of Forest Street, being Lots 24, 26 and 28 within Oak Orchard.

A variance from the front yard setback requirement.

Mrs. Isaacs presented the case. Richard Nelson was sworn in and testified requesting a 5-foot variance from the required 30-foot front yard setback requirement for a proposed porch; that the existing home is forty-five (45) years old; that the existing home encroaches into the setback; and that the porch will not extend into the setback any further than the existing home.

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

Case No. 10422 – Cara Ehrlich- west of Loretta Street, being Lot 35 within Bayview Park development.

A variance from the rear yard setback requirement.

Mrs. Isaacs presented the case. Cara Ehrlich was sworn in along with Megan Mahoney, Attorney, and testified requesting a 0.5-foot variance from the required 10-foot rear yard setback requirement; that the applicant purchased the property on May 11, 2009, that the survey they received from Simpler Surveying on May 4, 2009 showed that the home encroached into the setback; that the survey done by Land Tech on October 10, 2000 showed the home met setback requirements; that the home was therefore issued a certificate of occupancy on October 20, 2000; and that it would cause a hardship to move the home.

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

Motion by Mr. McCabe, seconded by Mr. Hudson, and carried unanimously that the variance be **granted since it was not created by the applicant, since it is the**

minimum variance to afford relief and since it will not alter the essential character of the neighborhood. Vote carried 5 – 0.

Case No. 10423 – Sussex County Habitat For Humanity- west of Road 376, north of Branchwood Place North, being Lot 12 within Branchwood development.

A variance from the front yard setback requirement.

Mrs. Isaacs presented the case. Jeff Neithammer was sworn in and testified requesting a 10-foot variance from the required 30-foot front yard setback requirement; that he would like to place a 28' x 44' home on the property; that a ditch runs along the rear of the property; that the foundation cannot be place close to the ditch bank; that they would like to move the home closer to the front of the property to eliminate future issues with standing water from the creek; that the septic system is located to the right of the proposed dwelling; and that the front porch will not be covered.

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 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. 10424 – Tidewater Utilities, Inc.- west of Irons Lane, 50 feet north of Manor Drive, within Bay Colony Section 3.

A special use exception to place a communications tower.

Mrs. Isaacs presented the case. James Willey Jr. was sworn in and testified on behalf of the applicant requesting a special use exception to place a communications tower; that the applicant would like to install a 55-foot tall monopole equipped with a communication antenna which will operate as part Tidewater Utilities, Inc. Supervisory Control And Data Acquisition (SCADA) system for their existing water facility; that it allows for control of operations at remote locations from a central computer system; that the property is zoned MR; that the SCADA antenna is not to achieve communications such as PCS/cellular phone type; that it will be surrounded by a 6-foot fence; that no signs or blinking lights will be located on the monopole; and that it will be located approximately 100-feet from the closet home.

Howard Simmons was sworn in and testified in opposition to the application and stated that Seagrass Plantations Homeowners Association is in opposition to the application; that he read a letter into the record from the Homeowners Association; that he has safety concerns; and the he does not want to see the tower used for commercial purposes.

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

The Board found that 1 party 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. Mills, seconded by Mr. McCabe, and carried unanimously that the case be **left open until July 6, 2009 for the applicant to submit a health and safety report.** Vote carried 5 – 0.

Case No. 10425 – Robert J. Belcher- north of Road 401, 1.1 mile west of U.S. Route 113, being Lot 4.

A variance from the side yard setback requirement.

Mrs. Isaacs presented the case. Brett Reilly was sworn in and testified on behalf of the applicant requesting a 3-foot variance on each side from the required 15-foot side yard setback requirement for a dwelling; that he would like to place a 78' x 32' home on the property; that it will have a 2 car garage' and that the neighbors do not object.

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 enables reasonable use of the property and since it will not alter the essential character of the neighborhood.** Vote carried 5 – 0.

OLD BUSINESS

Case No. 10391 – Jason Topercer- south of Route One, 176 feet northwest of Road 276.

A special use exception to place two (2) windmills.

The Board discussed the case, which has been tabled since May 4, 2009.

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.

Meeting adjourned @ 8:50 P.M.