



# BOARD OF ADJUSTMENT

## AGENDAS & MINUTES

### MINUTES OF June 16, 2008

The regular meeting of the Sussex County Board of Adjustment was held on Monday June 2, 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 Mr. Richard Berl – Assistant County Attorney and staff members, Mr. Norman Rickard and Mrs. Kelly Passwaters – Recording Secretary.

Motion by Mr. Mills, seconded by Mr. McCabe, 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 19, 2008 and June 2, 2008. 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. 10170 – Keith Properties, Inc.-** south of Route 54, west of Fenwick Shoals Boulevard, being Lot 1, Phase I and Parcel A within Fenwick Shoals development.

A special use exception for off-premise parking.

Mr. Rickard presented the case. Richard Keith and Brian Keith were sworn in along with William Scott, Attorney, and testified requesting a special use exception for off-premise parking; that they would like to have additional parking on Lot 1 that is currently vacant; that they are requesting to have 30 additional parking spaces on Lot 1; that they would place a fence to shield parking from the residential area; that no additional lighting is required; that they have applied for a change of zone on Lot 1; and that they spoke to residents in Fenwick Shoals and received approval from approximately 88% of the homeowners.

Benjamin McCabe was sworn in and testified in opposition to the application and stated that he lives on Lot 2; that he has read through the zoning ordinance; that he feels it

is poor planning on the applicants part; that he is worried that it may turn into a late night hangout; and that there could be noise problems late at night.

Randy Weaver was sworn in and testified in opposition to the application and stated that he purchased property from the applicant; that currently there is another vacant lot between him and the applicants commercial property; that he is concerned that it

could be used for additional parking in the future; and that he has concerns with noise and trash.

In Rebuttal, Richard Keith stated he has no objection to placing a fence to block trash from the development; and that Lot 1 cannot be used to place a dwelling due to the opening of the gate to the community.

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

The Board found that 2 parties appeared in opposition to the application.

Mr. Rickard stated the office received 3 letters in opposition to the application.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the case be **tabled until the Planning & Zoning Commission and County Council make a decision on the change of zone application.** Vote carried 5 – 0.

**Case No. 10171 – 1995 Property Management, Inc.-** northwest of Road 525, north of Frederick Douglas Drive, being Lot 10, Section 1, Block A within Fisher Mill Park development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Shawn Sylvia was sworn in and testified requesting a 2-foot variance from the required 10-foot side yard setback requirement; that the manufactured home was placed prior to his ownership; that when a survey was done the violation was discovered; that the property is being sold; and that he has owned the property for 2 years.

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

**Case No. 10174 – G. Anthony Keen-** east of Route 16, east of South Bay Shore Drive, being Lot 31 and ½ Lot 30, Block A, Section 2 of Old Inlet Beach.

A special use exception to place a windmill.

Mr. Rickard presented the case. Robert Light was sworn in and testified requesting a special use exception to place a windmill; that they applied for one (1) windmill but would like to place two (2) windmills; that they would like to mount them on the peak of the roof; that there is significant resource to power the windmills; that it will add value to the property; that they would measure 38-feet in height; and that the property is located in a flood zone.

The Board found that 6 parties appeared in support of the application.

Mr. Rickard stated the office received 1 letter in opposition to the application.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the special use exception be **granted for one (1) windmill since it will not substantially affect adversely the uses of adjacent and neighboring properties.** Vote carried 5 – 0.

**Case No. 1017 – Robert Payne** – west of Road 501, east of South Shore Drive, being Lot 23 within South Shores development.

A special use exception to place a windmill.

Mr. Rickard presented the case. Robert and Gail Payne were sworn in along with Robert Light who was sworn in at the previous case and testified requesting a special use exception to place a windmill; that they would like to place two (2) windmills; that they will be mounted on poles; that they will measure approximately 30' – 33' in height; that they would like to capture the resource which is located to the rear of the house; that it will not impact wildlife; that the windmill will not generate noise; and that it will increase property value.

The Board found that 7 parties appeared in support of the application.

Mr. Rickard stated the office received 1 letter in opposition to the application.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the special use exception be **granted for two (2) windmills.** Vote carried 5 – 0.

**Case No. 10176 – Charles and Kathleen Reich**- south of Route 54, south of Tyler Avenue, being Lot 24, Block 5 within Cape Windsor development.

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

Mr. Rickard presented the case. Charles Reich, Kathleen Reich and Phillip Craig were sworn in and testified requesting a 5-foot variance from the required 20-foot rear

yard setback requirement for a 2<sup>nd</sup> and 3<sup>rd</sup> floor deck and a 4.83-foot variance from the required 10-foot side yard setback requirement for a garage; that they would like to construct a new 3-story dwelling; that they received an approval letter from the Homeowners Association; and that they would like to have 2<sup>nd</sup> and 3<sup>rd</sup> floor decks and a garage.

Nancy Shriner was sworn in and testified in opposition to the application and stated that she has concerns with the rear yard setback; that her view will be impacted if a 3-story dwelling is constructed; that there are narrow lots in Cape Windsor; and that there are other 3-story dwellings.

Mr. Rickard read a letter from Mr. Johnson who was present in opposition.

Phillips Craig stated he met with Mr. Smith who is on Cape Windsor's Review Board.

Motion by Mr. McCabe, seconded by Mr. Workman, and carried unanimously that the variance be **granted since many variances have been granted in the area.** Vote carried 5 – 0.

**Case No. 10177 – Dale E. and Jean L. Wetzel-** north of Road 312, 780 feet west of Road 297.

A variance from the minimum acreage requirement to place an accessory structure without a main building.

Mr. Rickard presented the case. Dale and Jean Wetzel were sworn in and testified requesting a variance from the minimum acreage requirement to place an accessory structure without a main building; that they built a garage on the property; that the dwelling was removed; that when they applied for a building permit they were not told the dwelling must remain; and that the garage is used for storage.

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 is a unique shaped lot and since it enables reasonable use of the property.** Vote carried 5 – 0.

**Case No. 10178 – Ralph and Margarete Stark-** north of Route 9, 3,502 feet east of Road 474, being Lot 3.

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

Mr. Rickard presented the case. Margaret Stark was sworn in and testified requesting to retain a manufactured home on a medical hardship basis; that the case was previously approved; that the hardship is for her sister-in-law; and that the manufactured home measures 14' x 70'.

Mr. Rickard stated the office received 1 letter in favor 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**. Vote carried 5 – 0.

**Case No. 10179 – George T. and Nancy V. Kirkley-** south of Route 54, west of Swan Drive, being Lot 5A within Swann Keys development.

A variance from the side yard setback requirements.

Mr. Rickard presented the case. George and Nancy Kirkley were sworn in and testified requesting a 2-foot variance from the required 10-foot side yard setback requirements; that they would like to replace the existing manufactured home; that they received verbal approval from the neighbors; that they have received written approval from the Homeowners Association; that the new home will measure 24' x 66'; that the home will be centered on the lot; and that they moved the existing shed so the neighbors would have a better view of the water.

Mr. Rickard stated the office received 1 letter in favor 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, since it is the minimum variance to afford relief and since other variances have been granted in the area**. Vote carried 5 – 0.

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**The Board took a 5-minute Recess**

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**Case No. 10180 – Horace and Linda Wilson-** south of Road 244, 400 feet east of Road 246.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Linda Wilson was sworn in and testified requesting a 4.6-foot variance from the required 5-foot side yard setback requirement; that she placed the shed in 1993; that she received the certificate of occupancy; that the carport is being torn down; and that the other shed was moved into compliance.

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 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. 10181 – Northern Star LLC-** south of Route One, being Lot 2.

A special use exception to replace an existing billboard and a variance from the maximum height requirement for a sign.

Mr. Rickard presented the case. Dale McCalister was sworn in and testified requesting a special use exception to replace an existing billboard with a double stacked steel monopole and a 15-foot variance from the required 25-foot maximum height requirement for a sign; that the applicant desires to replace an existing billboard with a double stacked steel monopole; that the billboard will measure 12' x 48; and that they need a height variance.

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

**Case No. 10182 – Corethia Copes-** west of U.S. Route 13A, 317 feet north of Road 501.

A variance from the age requirement for initial placement of a manufactured home.

Mr. Rickard presented the case. Corethia Copes and Arville Prostles were sworn in and testified requesting a variance from the age requirement for initial placement of a manufactured home; that they purchased the manufactured home in February 2008; that they cleaned up the property; that they received approval from Mr. Lank to place the manufactured home on the property until a decision from the Board; that the home will be classified as a class “C” home; and that they have remodeled the home.

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. McCabe, and carried unanimously that the variance be **granted since the manufactured home is equal in appearance as the surrounding manufactured homes**. Vote carried 5 – 0.

**Case No. 10183 – Brad Smith-** intersection of Fairfield Road and Pickwicke Road, being Lot 53 within Fox Hollow development.

A variance from the front yard setback requirement for a through lot and a variance from the side yard setback requirement.

Mr. Rickard presented the case. Trevor Gourt was sworn in and testified requesting a 5.3-foot variance from the required 10-foot side yard setback requirement, a 15.9-foot variance from the required 30-foot front yard setback requirement and a 8.6-foot variance from the 30-foot front yard setback requirement; that the home has been in violation since 1984; that the property has been sold 4 times; that the property is being sold and the violation was discovered; that the lot is irregular shaped; and that a certificate of occupancy was not issued on the dwelling.

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

**Case No. 10184 – Pines At Seaford Community Assoc. Inc.-** east of Road 530, 350 feet south of Cedar Lane within Pines At Seaford.

A special use exception for a directional sign, a variance from the separation requirement, and variance from the square footage requirement, a variance from the front yard and corner setback requirements.

Mr. Rickard presented the case. Erika Grden was sworn in and testified requesting a special use exception to permit a directional sign, a 187.2-foot variance from the required 300-foot setback requirement from any dwelling, church and school, a 36-sqaure foot variance from the required 6-sqaure foot requirement per side for a directional sign, a 1-foot variance from the required 5-foot front yard setback requirement and a 19-foot variance from the required 25-foot corner setback requirement; that the sign is for the community entrance; that the community sits back off the road; and that the sign would allow for guests and emergency personnel to see the entrance.

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. Mills, seconded by Mr. Workman, and carried unanimously that the special use exception and variances be **granted since it will not alter the essential character of the neighborhood, since it is the minimum variance to afford relief and since the lot is unique.** Vote carried 5 – 0.

**Case No. 10172 – Stephen and Monika Utrecht-** west of Road 273, south of Winner Circle, being Lot 6 within Stable Farm development.

A variance from the front yard setback requirement for a through lot.

Mr. Rickard presented the case. Stephen Utrecht was sworn in and testified requesting a 14-foot variance from the required 40-foot front yard setback requirement; that they hired a contractor to construct the screen porch; that he obtained a building permit; and that the neighbor received a variance for the porch they constructed.

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 variance be **granted since it will not alter the essential character of the neighborhood.** Vote carried 5 – 0.

**Meeting Adjourned @ 9:20 P.M.**