



# BOARD OF ADJUSTMENT

## AGENDAS & MINUTES

### MINUTES OF JUNE 18, 2012

The regular meeting of the Sussex County Board of Adjustment was held on Monday, June 18, 2012, 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. John Mills, Mr. Brent Workman, Mr. Jeff Hudson, and Mr. Norman Rickard, with James Sharp – Assistant County Attorney, and staff members, Ms. Kelly Passwaters – Zoning Inspector II, and Mrs. Jennifer Norwood – Recording Secretary.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously to approve the Revised Agenda, with Case No. 10995 Jim Reiter/Doggies at the Beach, being withdrawn. Motion carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the Finding of Facts for May 21, 2012 be approved. Motion carried 5 – 0.

Mr. Sharp read a statement explaining how the Board of Adjustment meeting is conducted and the procedures for hearing the cases.

### PUBLIC HEARINGS

**Case No. 10992 – Todd A. Wise** – north of Route 54 (Lighthouse Road) northwest of Blue Teal Road, being Lot 44, within Swann Keys development. (Tax Map I.D. 5-33-12.16-445.00)

A variance from the side yard setback requirement.

Ms. Passwaters presented the case. Todd Wise was sworn in and was present with Ray Tomasetti, Attorney. Mr. Tomasetti presented the case to the Board and stated that the Applicant is requesting a 5-foot variance from the required 10-foot side yard setback requirements on both sides for a proposed manufactured home or modular dwelling with a 1-foot overhang, an 8.5-foot variance from the required 10-foot side yard setback requirements on both sides for proposed steps with awnings over both, an 8-foot variance from the required 10-foot side yard setback requirement, and a 3-foot variance from the required 5-foot setback requirement for a proposed shed with a 1-foot overhang; that the Applicant purchased the property located in Swann Keys in May 2012; that the variance request allows room for parking; that the lot is unique in size as it is narrow and shallow as it measures 40'x 100'; that the Applicant cannot purchase a double-wide

manufactured home or a modular dwelling to fit on this size lot; that there are similar structures in the neighborhood; that the character of the neighborhood has changed to stick built homes and the proposed dwelling is in line with the character of the neighborhood; that the property cannot be otherwise developed; that the Applicant did not create the hardship; that there have been similar variances granted in the development; that the variance is needed to enable reasonable use of the property; that the variance is the minimum to afford relief; that the proposed location

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of the shed will allow access to store his jet skis; and that, due to getting older and the cost, the Applicant is not interested in building a 2-story structure. Mr. Wise, under oath, confirmed the statements by Mr. Tomasetti. The Applicant also submitted a survey and a copy of the deed.

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

Motion by Mr. Workman, seconded by Mr. Rickard, and carried unanimously to take the case under advisement. Motion carried 5 – 0.

The vote by roll call; Mr. Rickard – yea, Mr. Workman – yea, Mr. Hudson – yea, Mr. Mills – yea, and Mr. Callaway – yea.

At the conclusion of the public hearings, the Chairman referred back to this case. Mr. Hudson stated that he would move that the Board recommend approval of Variance Application No. 10992 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The property is only 40 feet wide thereby making it unique;
2. The property cannot be otherwise developed;
3. The difficulty was not created by the Applicant;
4. The variance will not alter the character of the neighborhood; and
5. The variance sought is the minimum variance to afford relief.

Motion by Mr. Hudson, seconded by Mr. Mills, and carried unanimously that the variances be **granted for the reasons stated**. Motion carried 4 – 1.

The vote by roll call; Mr. Rickard – yea, Mr. Hudson – yea, Mr. Mills – yea, Mr. Callaway – yea, and Mr. Workman – nay.

**Case No. 10993 – Jay Bestpitch** – northeast of Road 279 (Camp Arrowhead Road) 2,400 feet south of Road 277 (Angola Road) and more specifically southwest of Pine road within Angola Neck Acres and 120 feet northeast of Road 279 (Camp Arrowhead Road), being Lot 14 within Angola Neck Acres development. (Tax Map I.D. 2-34-12.18-47.02)

A variance from the side yard setback requirement.

Ms. Passwaters presented the case. Judith Bestpitch was sworn in and testified requesting a 1.1-foot variance from the required 10-foot side yard setback requirement for an existing detached garage with an apartment above; that the existing garage has been on the lot for 15 years; that the Applicant received approval for a Conditional Use for multi-family use in 1999; that the property has been surveyed twice; that the survey completed for the Conditional Use application showed the encroachment; that the builder placed the garage in its current location

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years ago and they thought the encroachment issue was resolved during the Conditional Use application process; that the survey completed for the subdivision of the property showed the encroachment and they were advised to apply for the variance; that a Certificate of Compliance was issued for the structure; and that there is an existing shed that will be moved into compliance.

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

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 10994 for the requested variances based on the record made at the public hearing and for the following reasons;

1. The property is unique as it is an odd-shaped lot;
2. The variance will enable reasonable use of the property;
3. The variance will not be detrimental to the adjacent properties;
4. The variance will not alter the character of the neighborhood;
5. The variance is the minimum variance to afford relief; and
6. The variance is the least modification of the regulation in issue.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the variance be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Rickard – yea, Mr. Workman – yea, Mr. Hudson – yea, Mr. Mills – yea, and Mr. Callaway – yea.

**Case No. 10994 – Dewey W. Boothe & Patricia A. Boothe** – southeast of Route 13A (Bi-State Boulevard) approximately 792 feet northeast of Road 454A (Allens Mill Road). (Tax Map I.D. 5-32-13.00-9.02)

A special use exception to retain a multi-sectional manufactured home that is more than five (5) years old.

Ms. Passwaters presented the case. Dewey and Patricia Boothe, and Clifford Boothe were sworn in and testified requesting a special use exception to retain a multi-sectional manufactured home that is more than five (5) years old. The Applicants testified that in 1979 they placed a modular on the property; that they placed a manufactured home on the property in 1988 for farm

help; that that unit burned down and was replaced with a new manufactured home in 2001; that a Certificate of Compliance was issued on the unit at that time; that they are now subdividing a portion of the property to give to their son; and that their neighbors have no objection to the application. Clifford Boothe testified that he lives in the manufactured home and that there is an easement for access to the home.

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

Mr. Mills stated that he would move that the Board recommend approval of Special Use Exception Application No. 10994 for the requested special use exception based on the record made at the public hearing because the use does not substantially affect adversely the uses of the adjacent and neighboring properties.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the special use exception be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Rickard – yea, Mr. Workman – yea, Mr. Hudson – yea, Mr. Mills – yea, and Mr. Callaway – yea.

**Meeting Adjourned 8:00 p.m.**