



BOARD OF ADJUSTMENT

AGENDAS & MINUTES

MINUTES OF JUNE 20, 2011

The regular meeting of the Sussex County Board of Adjustment was held on Monday, June 20, 2011, 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 – Chief Zoning Inspector and Mrs. Jennifer Norwood – Recording Secretary.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously to approve the Revised Agenda with Case No. 10803 – County Development Associates, LLC being withdrawn on June 17, 2011. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of June 6, 2011 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. 10804 – Francis G. and Mary Lou Bentz and Jennie M. Bentz – southeast of Raod 368 (Beaver Dam Road) south of Ocean Air Drive being Lot A16 within Ocean Air development.

A variance from the side yard setback requirement.

Mrs. Isaacs presented the case. Meghan Hudson, Attorney, testified on behalf of the Applicant, requesting a 3.1-foot variance from the required 10-foot side yard setback requirement for an existing bump-out on a manufactured home; that the Applicant purchased the property in April 2011; that the previous owners lost the property to foreclosure; that the survey done for settlement showed the encroachment; that the unit has been on the property since 1985; that this was not created by the Applicant; that the variance is needed to continue reasonable use of the property; that it will not alter the character of the neighborhood; that this is the minimum variance to afford relief; and that the shed on this property is actually the neighbor's shed.

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

Case No. 10805 – James and Cindy Lawrence – northwest of Route 113(DuPont Blvd) being Lot 7 within Juliann Acres development.

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A variance from the side yard setback requirement.

Mrs. Isaacs presented the case. James Lawrence was sworn in and testified requesting a 6-foot variance from the required 10-foot side yard setback requirement for a proposed addition; that he purchased the property in 2004; that the dwelling was built in 1960; that the dwelling and detached garage were granted a variance in 2004 when he purchased the property; that the septic system is in the rear of the property; that the proposed addition will be the same distance from the property line as the existing dwelling; that the lot is unique in size; that the variance is needed to enable reasonable use of the property; that it was not created by the Applicant; that it will not alter the character of the neighborhood; that it is the minimum variance to afford relief; and that his neighbor has no objection to the application.

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. 10806 – Vincent Oddo – northwest of road 436 (Curley Drive) approximately 1,300 feet southeast of Road 439 (English Road).

A special use exception to place a multisectional home this is more than five (5) years old.

Mrs. Isaacs presented the case. Vincent Oddo was sworn in and testified requesting a special use exception to place a multisectional home that is more than five (5) years old; that the unit is a 1999 24'x 60' double-wide; that the unit will not alter the character of the neighborhood; that there are numerous manufactured homes in the area; that the unit is for his son; that the unit will have a block foundation; and that he submitted pictures.

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 special use exception be **granted since it will not substantially or adversely affect the neighborhood**. Vote carried 5 – 0.

Case No. 10807 – The Farmer’s Market @ Sea Colony – northwest corner of Route 1 (Coastal Highway) and West Way.

A special use exception for an outdoor display or promotional display for a period of five (5) years.

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Mrs. Isaacs presented the case. Carrie Bennett was sworn in and testified requesting a special use exception for an outdoor display or promotional display; that the farmer’s market will be for ten (10) Wednesday’s from June 29th thru August 30th; that the hours will be from 8:00 a.m. to 12:00 p.m.; that the surrounding property owners are in full support of the application; that they have been given permission to use the parking lot for free; and that the market will be within walking distance from several residential areas.

Ed Keye was sworn in and testified in support of the application and stated that he is the Secretary of Agriculture; and that he feels this is a great opportunity for local farmers.

The Board found that 7-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 for 10-Wednesday’s for a period of five (5) years, since it will not substantially or adversely affect the neighborhood.** Vote carried 5 – 0.

Case No. 10808 – Ralph Page – south of Route 54 east of Grant Avenue being Lot 1 Block 6 within Cape Windsor.

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

Mrs. Isaacs presented the case. Ralph Page and Doug Tinley were sworn in and testified requesting an 8.5-foot variance from the required 15-foot side yard setback requirement and a 1.8-foot variance from the required 10-foot side yard setback requirement for a proposed porch; that when he purchased the property in 2010 the Board granted numerous variances; that the previous owner built without the proper permits and did not comply with the required setback requirements; that the lot is unique in size; that the porch cannot be built without a variance; that it will not alter the character of the neighborhood; that the lot was not created by the Applicant; that the Homeowner’s Association does not object to the application; and that it is the minimum variance to afford relief.

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

Case No. 10809 – Turnstone Builders – east of Route 1 (Coastal Highway) southeast corner of Collins Avenue and Mary Avenue, being Lot 5 within Indian Beach Surf Club development.

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

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Mrs. Isaacs presented the case. David Epps was sworn in and testified requesting a 5-foot variance from the required 15-foot side yard setback requirement and a 1-foot variance from the required 6-foot rear yard setback requirement for a proposed inground pool; that the dwelling was built as a spec home; that the uniqueness of the property is the cost of the land; that a large dwelling had to be built to cover the cost of the property; that there are numerous pools in the area; that the proposed pool will be approximately 16'x 25'; that it cannot be otherwise developed without the variance; that the adjacent neighbor's and the Homeowner's Association have no objection to the application; that Mary Avenue is not a street used by vehicles; that the dwelling is 7,000-square-foot in size; that there are numerous variances in the development; and that he submitted pictures.

Mrs. Isaacs read a letter of opposition into the record.

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 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 case be **tabled until July 11, 2011**. Vote carried 5 – 0.

Case No. 10810 – Gerald W. Hocker – east of Road 17, 609 feet, south of Route 26.

A special use exception to place a billboard, a variance from setback requirement and the height requirement.

Mrs. Isaacs presented the case. Gerald Hocker, Jr. was sworn in and testified requesting a special use exception to place a billboard, a 13-foot variance from the required 25-foot maximum height requirement for a billboard, an 8.8-foot variance from the required 25-foot setback requirement for a billboard, and a 180.1-foot variance from the required 300-foot setback requirement from another billboard requirement; that the property is zoned C1; that there are numerous billboards in the area; that the height variance is to allow large vehicles that park in the existing parking lot room to park under the billboard; that after speaking to DelDOT the

billboard will meet the 25-foot setback requirement from the property line; that the billboard will be a steel monopole structure with LED message capability; and that the LED message board will also be used to show Amber Alerts and other emergency type messages that need to get out to the public as quick as possible.

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

Mrs. Isaacs stated that the office received 3-letters of support to the application.

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Motion by Mr. McCabe, seconded by Mr. Hudson, and carried unanimously that the special use exception and the variances be **granted since it will not substantially or adversely affect the surrounding neighborhood**. Vote carried 5 – 0.

Case No. 10811 – Dewitt Flem – west of Road 562 (Progress School Road), 2,750 feet, south of Road 404.

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

Mrs. Isaacs presented the case. Ken Christenbury and Dewitt Flem were sworn in and testified requesting a special use exception to place a manufactured home on a medical hardship basis; that his existing dwelling burnt down; that he would have liked to place a recreational vehicle or a manufactured home on the property; that due to his health and age he cannot rebuild; that he plans to use the existing septic and well; and that he understands he cannot place a recreational vehicle to use as a dwelling.

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 **left open to allow the Applicant to provide the Board with information on what make, year and size manufactured home will be placed on the property**. Vote carried 5 – 0.

OTHER BUSINESS

Case No. 10633 – 26 Centre, LLC – northeast corner of Route 26 and Road 327.

A special use exception to place a billboard, a variance from the maximum allowable square footage of a billboard, variance from the maximum height requirement, variance from the setback requirement from dwelling, church, school, public lands or another sign.

Request for a time extension.

Mrs. Isaacs read a letter from the Applicant requesting a 12-month time extension.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the request for a 12-month time extension be **denied**. Vote carried 4 – 1.

OLD BUSINESS

Case No. 10802 – Marilyn Finn – southwest of Front Street (aka 39B) approximately 1,500 feet north of Road 39 (Primehook Road), being Lot 77 within Primehook Beach development.

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

The Board discussed the case which has been tabled since May 16, 2011.

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.

Meeting Adjourned 8:30 p.m.