



## *Board of Adjustment*

### Agendas & Minutes

#### MINUTES OF JUNE 4, 2007

The regular meeting of the Sussex County Board of Adjustment was held on Monday June 4, 2007, 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 Ms. Rebecca L. Trifillis – Assistant County Attorney and staff members Mr. Norman Rickard and Ms. Kelly Eaton – Recording Secretary.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Agenda with the correction to move Case No. 9853 – CMF Bayside, LLC to the end. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of May 21, 2007 as circulated. Vote carried 5 – 0.

#### PUBLIC HEARINGS

**Case No. 9851 – Maher M. Zarou-** south of Road 277, west of Angola Road West, being Lot 28 and ½ Lot 29, Block N, Section 2 within Angola By The Bay development.

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

Mr. Rickard presented the case. Bill Schab, Attorney, present on behalf of the applicant, testified requesting a 0.4-foot variance from the required 5-foot setback for a shed, a 9.5-foot variance from the required 20-foot rear yard setback requirement, a 0.9-foot variance from the required 10-foot side yard setback requirement and a 0.4-foot variance from the required 10-foot side yard setback requirement; that it is a undersized lot; that the applicant purchased the property in 2004; that the survey shows the property as it is today; that the Homeowners Association has no objection; and that it would cause a hardship to correct the violations.

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

Ron Christman was sworn in and testified in opposition to the application and stated that he only had a question and was not opposing the variances; that he is the next-door neighbor; and that the applicant's driveway is on his property.

Motion by Mr. McCabe, seconded by Mr. Workman and carried unanimously that the variances be **granted since it will not alter the character of the neighborhood, since it is the minimum variance to afford relief and since it was not created by the applicant.** Vote carried 5 – 0.

**Case No. 9852 – Alan R. and Pamela K. Siek-** south of Bay Road, west of Daisey Road, being Lot 51 within Suburban Development.

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

Mr. Rickard presented the case. Bill Schab, Attorney, present on behalf of the applicant testified requesting a 0.6-foot variance from the required 10-foot side yard setback requirement and a 1.3-foot variance from the required 30-foot front yard setback requirement; that the applicant recently purchased the property; that the encroachments were discovered when a survey was done; and that those violations have existed for approximately 30 years.

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

**Case No. 9854 – Donald E. and Lynda E. Webster-** southwest of Baylis Drive, being Lot 20 within Tall Pines development.

A variance from the maximum height requirement.

Mr. Rickard presented the case. Donald Webster was sworn in and testified requesting a 2.5-foot variance from the required 42-foot height requirement; that the variance is for architectural design only; that the applicants neighbors do not object; and that the house is 3-foot above base flood.

By a show of hands 3 parties appeared in support of the application.

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

Motion by Mr. Hudson, seconded by Mr. McCabe and carried unanimously that the variances be **granted since it enables reasonable use of the property and since that it is unique**. Vote carried 5 – 0.

**Case No. 9855 – Kurt Latta-** southeast of Fleatown Road, 633 feet southeast of Road 224.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Kurt Latta was sworn in and testified requesting a 15-foot variance from the required 30-foot front yard setback requirement; that the applicant wants to place a pole building; that he would like to place it 15-foot from the easement; that it would waste space if placed back further on the property; and that the neighbors do not object.

By a show of hands 1 party appeared in favor of the application.

The Board found that no parties appeared 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. Mills, 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. 9856 – Greenwood Country Retirement, Inc.-** southwest of Route 16, 2,650 feet north of Road 587.

A special use exception for expansion of a convalescent home facility.

Mr. Rickard presented the case. Mark Yoder, Jr. was sworn in and testified requesting an expansion of 3 additional homes for the convalescent home; that they recently placed 9 new homes and have room for 3 additional; that they have a high demand for homes; and that they received approval from DNREC for the septic system.

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

Motion by Mr. Workman, seconded by Mr. Mills and carried unanimously that the variance be **granted since it is the minimum variance to afford relief**. Vote carried 5 – 0.

**Case No. 9857 – Jessica Voorhees-** west of Hastings Road, 204 feet southeast of Road 388, being Lot 51 within Hampden Park development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Clifford White and Jessica Voorhees were sworn in and testified requesting a 1-foot variance from the required 10-foot side yard; that the home was proposed to be placed vertically; that the property was given to her by her parents; and that there have been other variances granted in the area.

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

**Case No. 9858 – Carolyn Muse-** southwest of Route One, corner of Ann Avenue and South Avenue, being Unit 10 within Ocean Dunes condominium.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Carolyn Muse was sworn in and testified requesting a 10-foot variance from the required 15-foot corner for a deck; that a 3-foot variance was approved on April 2, 2007; that the deck will measure 12' x 12'; that the proposed deck will allow for easier access to the property; and that the Homeowners Association supports the application.

By a show of hands 1 party appeared in support of the application.

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

Motion by Mr. Hudson, seconded by Mr. Mills and carried unanimously that the 10-foot variance be **granted since it will not alter the character of the neighborhood and since it is a unique lot.** Vote carried 5 – 0.

**Case No. 9859 – Richard H. and Donna K. Harris-** east of Road 463, 2,050 feet north of Road 451.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Richard H. Harris was sworn in and testified requesting a 10-foot variance from the required 15-foot side yard setback requirement; that it is to place a garage; and that he also owns the corner lot.

By a show of hands 1 party appeared in support of the application.

The Board found no parties appeared in opposition of the application.

Motion by Mr. Hudson, seconded by Mr. Workman and carried unanimously that the variance be **granted since it will not alter the character of the neighborhood and since it is the minimum variance to afford relief**. Vote carried 5 – 0.

**Case No. 9860 – Dale and Lora Collins-** north of Road 368, 850 feet east of Road 365.

A special use exception to expand and existing day care facility.

Mr. Rickard presented the case. Lora Collins was sworn in with David Weidman, Attorney, present on behalf of the applicant, and testified requesting a special use exception to increase the number of children in a day care center from 85 to 115; that the day care has been there for 7 years; that for the past 6 years she has operated the day care center at full capacity; that the facility has a waiting list; that she has received no complaints from her neighbors regarding the day care center; that no complaints have been filed with the State of Delaware day care licensing agency; and that it will not need to hire any additional help for the extra kids.

David Borek was sworn in and testified in support of the application and stated that he is a Certified Real Estate Appraiser; that he worked with the applicant 10 years ago; that he feels it would not affect the use of adjacent and neighboring properties; and that the facility was originally designed for 115 children.

By a show of hands 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. Hudson and carried unanimously that the special use be **granted since it enables reasonable use of the property and since it will not alter the character of the neighborhood**. Vote carried 5 – 0.

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The Board took a 5-minute recess.

**Case No. 9861 – Milton Ayers-** north of Road 297, 750 feet west of Road 304.

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

Mr. Rickard presented the case. Milton Ayers was sworn in and testified requesting a special use exception to retain a mobile home for a medical hardship; that the applicant has medical problems; and that the mobile home would be for his granddaughter.

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 be **granted for a period of 2 years**. Vote carried 5 – 0.

**Case No. 9862 – Glenn G. Wilkerson-** south of Road 302A, southeast corner of Avalon Drive and Brach Street, being Lot 25, Block C within Avalon Park development.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Glenn Wilkerson was sworn in and testified requesting a 1.4-foot variance from the required 30-foot front yard setback requirement; that the roads were originally gravel; that the certificate of occupancy was issued; and that the encroachments were discovered at his last Board of Adjustment hearing.

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 was not created by the applicant, since it is the minimum variance to afford relief and since it will not alter the character of the neighborhood**. Vote carried 5 – 0.

**Case No. 9863 – John M. Dillon-** south of Woodland Circle, west of Boat Dock Drive, being Lot 35, Block Y within Angola By The Bay development.

A variance from the rear yard setback requirement.

Mr. Rickard presented the case. John Dillon was sworn in and testified requesting a 9-foot variance from the required 20-foot rear yard setback requirement; that his

neighbors do not oppose the application; that the deck will measure 6' x 12'; that he is adjacent to the common area; and that other variance have been granted in the neighborhood.

By a show of hands 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 character of the neighborhood**. Vote carried 5 – 0.

**Case No. 9853 – CMF Bayside, LLC-** south of Route 54, west of Americana Parkway, within Americana Bayside development.

A variance from the maximum square footage requirement for a ground sign.

Mr. Rickard presented the case. James Willey, Jr. and Thomas Brown were sworn in and testified requesting a 90-square foot variance per side from the required 150-square foot per side for a ground sign; that it is for a vee-shaped ground sign; that the sign will be approximately 240-square feet on each side; that the Town Center is located on the southerly side of a forested conservation area; that visibility is limited; and that they want to maintain a high end look.

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

Paul Laclerk was sworn in and testified in opposition and stated that he was not opposing to the sign; that he questions what type of lighting will be used.

Motion by Mr. McCabe, seconded by Mr. Mills and carried unanimously that the variance be **granted since it will not alter the character of the neighborhood**. Vote carried 5 – 0.

**Meeting adjourned at 8:35 p.m.**