



BOARD OF ADJUSTMENT

AGENDAS & MINUTES

MINUTES OF JUNE 7, 2010

The regular meeting of the Sussex County Board of Adjustment was held on Monday June 7, 2010, 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. 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 table the Minutes of the May 17, 2010 meeting. 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. 10624 – Helen Rouke- north of Road 298, west of Canal Drive Extended, being Lot 16 within Short Hills Annex development.

A variance from the side yard setback requirement.

Mrs. Isaacs presented the case. Patricia Nizinski was sworn in and testified on behalf of the applicant requesting a 1-foot variance from the required 10-foot side yard setback requirement for a porch; that the existing manufactured home on the property was damaged by snow; that they purchased a used manufactured home with an attached porch; that the manufactured home measures 14' x 66'; that the porch measures 12' x 16'; that the new manufactured home has already been set on the property; and that when she obtained a placement permit for the manufactured home she was told the setback requirement was 15-feet from the side yard.

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 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. 10625 – Barbara J. and William K. Baker, Jr.- south of Road 417, 1.050 feet west of Route 54.

A variance from the setback requirement for a manure shed.

Mrs. Isaacs presented the case. Barbara and William Baker were sworn in and testified requesting a 97-foot variance from the required 200-foot setback requirement from a dwelling not on the premise; that the manure shed has been on the property for two (2) years; that the manure shed is too close to the neighbors dwelling; that the manure shed measures 40' x 40'; and that trees were planted as a buffer to block the site of the manure shed.

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

Mrs. Isaacs stated the office received one (1) letter in opposition to the application.

Motion by Mr. Hudson, seconded by Mr. Mills, and carried unanimously that the variance be **granted since it is the minimum variance to afford relief, since it will not alter the essential character of the neighborhood, since it enables reasonable use of the property, and that a letter be sent to the contractor.** Vote carried 5 – 0.

Case No. 10626 – Janet V. and Edward P. Nichols- southwest of Road 602, 1,472 feet west of Old County Road, being Lot 1.

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

Mrs. Isaacs presented the case. Melinda Nichols and Peter Nichols were sworn in and testified requesting a special use exception to place a multi-sectional home more than five (5) years old; that the manufactured home is a 1995; that the home measures 28' x 45'; that the manufactured home was given to them; and that their parents are subdividing a 2-acre parcel for placement of the manufactured home.

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 **tabled for the staff to report on the unregistered vehicles of the property.** Vote carried 5 – 0.

Case No. 10627 – Matteos Salsa Loco- east of Route One, south of West Virginia Avenue, being Units 1 and 2 within Lighthouse Square.

A variance from the minimum number of parking spaces requirement.

Mrs. Isaacs presented the case. Joseph Balsamo, Matt Griffin and Mark Davidson were sworn in along with James Fuqua, Attorney, and testified requesting a variance from the minimum number of parking spaces; that Mr. Griffin obtained a building permit for an interior remodel on March 10, 2010; that there are thirty-three (33) existing parking spaces; that the shopping center has been occupied since 1984; that the Planning & Zoning Department has not received any complaints in reference to parking in twenty-seven (27) years; that they plan to use eight (8) spaces from the Sunsation's location across the street for employee's to use as parking; and that there is no possibility to add any additional parking spaces on the parcel.

Ron Steen was sworn in and testified in favor of the application and stated that he has been in Bethany Beach resident for approximately twenty (20) years; and that there is parking available in the residential area around the shopping center.

Frank and Diane Rieley were sworn in and testified in opposition to the application and stated that there is very little parking on West Virginia Avenue; and that three (3) spaces in the parking lot are being occupied by tenants in the apartments above the shopping center.

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

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

Mrs. Isaacs stated the office received 2 letters in opposition to the application.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the case be taken under advisement. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variance be **granted with the stipulation that eight (8) parking spaces on the Sunsation's parcel be used for employee parking and since it meets the standards for granting a variance.** Vote carried 5 – 0.

Case No. 10628 – Daphne Coulbourn- north of Road 547, southwest of Road 553.

A special use exception to operate a day care center.

Mrs. Isaacs presented the case. Daphne Coulbourn was sworn in and testified requesting a special use exception to operate a day care center; that she will have a maximum of nine (9) children; that she has been a Level II provider for eleven (11) years; that the children will range in age from 6 weeks to 11 years old; that the hours of operation will be from 7:00 A.M. to 5:00 P.M.; and that there will be no employee's.

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 since it will not substantially affect adversely the uses of adjacent and neighboring properties**. Vote carried 5 – 0.

Case No. 10629 – Ronald Rebels- south of Route 54, north of Breakwater Run, being Lot 156, within Keenwick Sound Phase II development.

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

Mrs. Isaacs presented the case. Jacqueline Moore and Ronald Rebels were sworn in and testified requesting a 28.6-foot variance from the required 40-foot front yard setback requirement for a shed on a through lot and a 5-foot variance from the required 40-foot front yard setback requirement for an existing deck for a through lot; that the parcel is a through lot; that the shed measures 10' x 16'; that they were not aware of the setback requirement from Route 54; that the deck needs a variance; and that they purchased the home with the deck already built.

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 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. 10630 – Scott Olewiler – west of Savannah Road, northeast of Road 263 and Queens Drive, being Lot 22 within Swanendael Acres development.

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

Mrs. Isaacs presented the case. Scott Olewiler was sworn in and testified requesting a 15.4-foot variance from the required 40-foot front yard setback requirement

for a proposed addition and a 4.7-foot variance from the required 15-foot side yard corner setback requirement for a proposed addition; that the home was constructed in 1963; and that they would like to add a single car garage on the side of the home with a bedroom and bath to accommodate a growing family.

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

Mrs. Isaacs stated the office received 1 letter in favor of the application.

Motion by Mr. Mills, 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. 10631 – Hertrich Properties V, LLC- southwest intersection of Road 485 and U.S. Route 13.

A special use exception to replace billboards, a variance from the maximum allowable square footage for a billboard, and a variance from the setback requirement from a dwelling, church, school, public lands or another sign.

Mrs. Isaacs presented the case. Dale McCalister was sworn in and testified on behalf of the applicant requesting a special use exception to replace three (3) existing billboards, and a 552-square foot variance from the required 600-square foot requirement for each billboard; that the three (3) existing billboards on the property have been cut down; that the new billboards will be steel monopole; that they will measure 12' x 48'; and that they will be lighted.

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 **tabled for the property owner to remove all illegal bandit signs and that the property owner be notified that he cannot advertise the business on the property**. Vote carried 5 – 0.

Case No. 10632 – NV Homes- south of marina Bay Circle, 1.11 miles northeast of bay Farm Road/Trinity Road intersection, being Phase 6B, Areas 5.1, 6, 8.1 and 9 within the Peninsula.

A variance from the maximum allowable length requirement for a multi-family dwelling.

Mrs. Isaacs presented the case. Frank Kea was sworn in and testified on behalf of the applicant requesting 4.5-foot variance from the required 165-foot maximum allowable length requirement for a multi-family dwelling; that due to market conditions

the demand for multi-family home request that the master bedroom on the ground floor; that in order to meet this demand, the home width must be a minimum of 28-feet in order to create a livable and desirable home; that they plan to construct seven (7) six (6) unit buildings with 28-foot widths not to exceed 169.5-foot; and that the separation requirement will be maintained.

Sandra Spence was sworn in and testified in opposition to the application and stated that she does not understand how several units can be covered under one (1) variance application; and wonders why the Planning & Zoning Commission does not make the decision.

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. McCabe, seconded by Mr. Hudson, 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 it enables reasonable use of the property.** Vote carried 5 – 0.

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.

Mrs. Isaacs presented the case. Andrew Timmons was sworn in and testified requesting a special use exception to place a billboard, a 552-square foot variance from the required 600-square foot requirement for billboard “A”, a 45.6-foot variance from the required 300-foot setback requirement from a dwelling not on the premises for billboard “A”, a 10-foot variance from the required 25-foot height requirement for billboard “A”, a 5-foot variance from the required 25-foot height requirement for billboard “B”, a 176.5-foot variance from the required 300-foot setback requirement from a dwelling not on the premises for billboard “B”, and a 1800-square foot variance from the required 600-square foot requirement per side or facing; that they have owned the property since 1986; that he would like to construct a new billboard on a steel monopole; that it will measure 12’ x 48’; that it will measure 35-foot in height; that they would like to relocate billboard “B” to the west side of the property due to future storm water management in that location; that billboard “B” will be two (2) double stacked 10’ x 30’; that billboard “B” will measure 30-foot in height; and that billboard “A” and billboard “B” will be located approximately 305-feet apart.

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

Mrs. Isaacs stated the office received 3 letters in support of the application.

Motion by Mr. McCabe, seconded by Mr. Hudson, and carried unanimously that the special use exception and variances be **granted since it will not alter the essential character of the neighborhood**. Vote carried 5 – 0.

OLD BUSINESS

Case No. 10622 – Bonita Sponsler and Harry Lartz – west of Road 327, west of Dogwood Acres Road, being Lot 4 within Rolling Acres development.

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

The Board discussed the case, which has been tabled since May 17, 2010.

Motion by Mr. Workman, seconded by Mr. McCabe, 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 by roll call 3 – 2.

Meeting adjourned at 9:15 P.M.

