



BOARD OF ADJUSTMENT

AGENDAS & MINUTES

MINUTES OF MARCH 1, 2010

The regular meeting of the Sussex County Board of Adjustment was held on Monday March 1, 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 and Mr. Jeff Hudson, with Mr. Richard Berl – Assistant County Attorney and staff members, Mrs. Susan Isaacs 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 4 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of the November 16, 2009 meeting. Vote carried 4 – 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. 10573 – John Cox- north of Route 54, east of Laws Point Road, being Lot 38, Block E within Swann Keys development.

A variance from the side yard setback requirement.

Mrs. Isaacs presented the case. John Cox and Darrell Grier were sworn in and testified requesting a 3-foot variance from the required 10-foot side yard setback requirement for an enclosed porch, a 5-foot variance from the required 10-foot side yard setback requirement for a dwelling, a 8.3-foot variance from the required 10-foot side yard setback requirement for a HVAC unit and a 4.3-foot variance from the required 10-foot side yard setback requirement for an attached shed; that they are constructing a new home; that the rear porch will be attached; and that the shed will be attached to the home.

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

Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously that the variances be **granted**. Vote carried 4 – 0.

Case No. 10574 – Bridle Ridge Properties, LLC- Bay Terrace, Pier Point, Sandcastle Cove and Seashore Lane, north of Salt Marsh Boulevard, being Lots 232 thru 261 and 263 thru 277, being within Henlopen Landing Phase 4 development.

A variance from the front yard setback requirement.

Mrs. Isaacs presented the case. Preston Dyer was sworn in and testified requesting a 5-foot variance from the required 30-foot front yard setback requirement; that Phase 1, 2, and 3 have been constructed; that construction has started on Phase 4; that the 30-foot front yard setback does not accommodate a larger footprint for a home; that the variance is needed for 45 of the 46 lots in Phase 4; that the variance is needed due to the market conditions; and that the variance will have no impact of the 3 previous phases.

Sandra Spence was sworn in and testified in opposition to the application and stated she lives in the adjacent community; that buyers do prefer to have master bedrooms on the first floor; that she is unsure why the lots are not made larger to support larger homes; and that she feels there will be more impervious surface.

In Rebuttal, Mr. Dyer stated that the storm water management has been changed for Phase 4; that changes have been made to Pond 2 additional storm water; and that with the market trends that they have experienced people prefer living on the first floor.

In Rebuttal, Ms. Spence stated that Ryan Homes have developed a different model to accommodate certain lots.

In Rebuttal, Mr. Dyer stated that the community of Seawood has larger lots, which is where Ms. Spence resides.

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. Mills, and carried unanimously that the case be taken under advisement. Vote carried 4 – 0.

At the conclusion of the public hearings, the Chairman referred back to the case. Motion by Mr. Hudson, seconded by Mr. Mills, and carried unanimously that the case be **tabled until March 15, 2010**. Vote carried 4 – 0.

Case No. 10575 – Francis M. and Maureen B. Benincasa- west of Road 350, north of Pine Street, being Lot 13, Section A within Banks Acres Development.

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

Mrs. Isaacs presented the case. Ken Feaster, Attorney, testified on behalf of the applicant requesting a 4.91-foot variance from the required 5-foot side yard setback requirement for a shed, a 4.92-foot variance from the required 5-foot rear yard setback requirement for a shed, a 2.2-foot variance from the required 5-foot side yard setback requirement for a shed, a 6.8-foot variance from the required 10-foot side yard setback

requirement for a garage and a 5-foot variance from the required 10-foot rear yard setback requirement for a garage; that the applicant purchased the property in October 2009; that when a survey was done of the property the violations were discovered; and that it is believed that the shed and garage were built/placed in 1971.

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 was not created by the applicant and since he will not alter the essential character of the neighborhood.** Vote carried 4 – 0.

Case No. 10576 - Gerald and Joan Rice- west of Road 277, east of Dogwood Drive, being Lots 15 and 16, Block A, Section 2 within Angola By The Bay development.

A variance from the side yard and rear setback requirements.

Mrs. Isaacs presented the case. Gerald and Joan Rice was sworn in and testified requesting a 2.9-foot variance from the required 10-foot side yard setback requirement for an attached garage and a 3-foot variance from the required 20-foot rear yard setback requirement; that they would like to enclose the existing deck; that they received a variance approval in 1997; that the garage encroaches further than the variance approval they received; and that they received an approval letter from the Homeowners Association.

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

Motion by Mr. Hudson, seconded Mr. Mills, 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 4 – 0.

Case No. 10577 – Jacquelyn M. and John F. Taylor- south of Route 54, east of Wilson Avenue, being Lot 8, Block 3 within Cape Windsor development.

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

Mrs. Isaacs presented the case. Bruce Stoehr was sworn in and testified on behalf of the applicant requesting a 3.2-foot variance from the required 20-foot side yard setback requirement for a proposed manufactured home, a 3-foot variance from the required 5-foot side yard setback requirement for a shed, a 3.5-foot variance from the required 5-foot side yard setback requirement for a detached garage under 600-square feet, a 9-foot variance from the required 10-foot side yard setback requirement for steps, a 7-foot variance from the required 10-foot side yard setback requirement for a chimney, and a 8-foot variance from the required 10-foot side yard setback requirement for an AVAC unit; that the applicant received variance approval in October 2009 for the south side of the property; that he was not aware a variance was needed for the shed and garage; that the lot is narrow; and that Cape Windsor was originally created for singlewides.

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**. Vote carried 4 – 0.

Case No. 10578 – Mark Poley- south of Pine Street, 400 feet west of Clubhouse Road, being Lot 24, Section B within Banks Acres development.

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

Mrs. Isaacs presented the case. Mark Poley was sworn in and testified requesting a 4.6-foot variance from the required 5-foot rear yard setback requirement for a shed, a 3.15-foot variance from the required 5-foot side yard setback requirement for a shed and a 8.15-foot variance from the required 10-foot side yard setback requirement for a proposed pole barn; that he would like to construct a 28' x 29' pole barn; that if he were to build according to zoning regulations it would make it impossible for him to make use of the garage without difficulties; that the variance is needed to keep the general appearance of the neighborhood; and that the neighbors do not object.

Susan Laushey was sworn in and testified in opposition to the application and stated that she wants to know whether the property is leased land and if there is a hardship involved.

In Rebuttal, Mr. Poley stated that the property is not leased land and that he owns his land; and that he purchased the property with the structures on the property.

The Board found that 2 parties appeared in support of the application.

The Board found that 1 party appeared in opposition to the application.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variances be **granted since it meets the standards for granting a variance**. Vote carried 4 – 0.

OTHER BUSINESS

Case No. 10548 – Jocelyn and Orvine E. Reidell, III- east of Route 22, east of Berry Street, being Lot 1 within Bay City Mobile Home Park.

A variance from the rear yard setback requirement and a variance from the maximum allowable lot coverage in a mobile home park.

This is a request for a rehearing.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be **tabled until March 15, 2010**. Vote carried 4 – 0.

Meeting Adjourned at 8:20 P.M.

