

MINUTES OF MARCH 15, 2021

The regular meeting of the Sussex County Board of Adjustment was held on Monday, March 15, 2021, at 6:00 p.m. in the County Council Chamber, Sussex County Administration Office Building, Georgetown, Delaware.

The meeting was called to order at 6:00 p.m. with Chairman Chair John Williamson presiding. The Board members present were: Dr. Kevin Carson, Mr. Jeff Chorman, Mr. John T. Hastings, Mr. John Williamson, and Mr. Brent Workman. Also, in attendance were Mr. James Sharp, Esquire – Assistant County Attorney, and staff members Mr. Jamie Whitehouse – Director of Planning and Zoning, Ms. Jennifer Norwood – Planning and Zoning Manager, Ms. Christin Scott – Planner I and Mr. Nicholas Torrance – Planner I.

The Pledge of Allegiance was led by Mr. Williamson.

Mr. Whitehouse announced that he had an update regarding Case No. 12535 – FDPN Management, LLC, and that a letter was received this afternoon requesting a withdrawal of the Application and that request will be considered after the scheduled recess.

Motion by Dr. Carson, seconded by Mr. Chorman, and carried unanimously to approve the agenda as presented. Motion carried 5 – 0.

The vote by roll call; Mr. Workman – yea, Mr. Williamson – yea, Dr. Carson – yea, Mr. Hastings – yea and Mr. Chorman - yea.

Motion by Mr. Chorman, seconded by Dr. Carson, and carried unanimously to approve the Minutes for the January 25, 2021, meeting. Motion carried 5 – 0.

The vote by roll call; Mr. Williamson – yea, Mr. Workman – yea, Dr. Carson – yea, Mr. Hastings – yea and Mr. Chorman - yea.

Motion by Mr. Hastings, seconded by Mr. Workman, and carried to approve the Findings of Facts for the January 25, 2021, meeting. Motion carried 5 – 0.

The vote by roll call; Mr. Williamson – yea, Mr. Workman – yea, Dr. Carson – yea, Mr. Hastings – yea and Mr. Chorman - yea.

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. 12514 – Steven Staniszewski seeks a variance from the separation distance requirements for a proposed structure (Sections 115-50, 115-182, 115-183 and 115-188 of the Sussex County Code). The property is located on the east side of Arthurs Town Road within Bahamas Beach Cottages. 911 Address: 602 Arthurs Town Road, Bethany Beach. Zoning District:

HR-2. Tax Parcel: 134-17.00-44.00-57

Mr. Whitehouse presented the case and stated that the Office of Planning and Zoning received two letters in support of and five letters in opposition to the Application and four mail returns. The Applicant is requesting a 10 ft. variance from the required 40 ft. separation distance between buildings.

Mr. Steven Staniszewski and Mr. Jim Brennan were sworn in to give testimony about the Application.

Mr. Staniszewski submitted an additional letter of support to the Board members.

Mr. Staniszewski testified that he wanted to build a deck at this home; that he applied for and received a building permit from the County; that, after completing the deck, he and his wife decided to increase the size of the deck; that, when applying for the second building permit, it was discovered that the original permit should not have been issued due to the separation distance between the buildings; that the original deck was approved; that he was advised that, if he wished to add to the deck, a variance would be necessary; that there are similar decks in the neighborhood and that other variances have been granted while others do not have variances; that, with his Application, he included previous cases approved by the Board; that he proposes to expand the length of the deck and add 3 feet; that the lot is unique; that the lot is an odd-shaped lot without a clear understanding of where the lot boundaries are; that it cannot otherwise be developed as it is the only area to use and build a deck; that this was not created by the Applicants but by how the lots and homes were originally created; that it will not alter the essential character of the neighborhood as there are similar decks in the area and will increase the use of this property; that the variance requested is the minimum request to afford relief; that he has spoken with neighbors and has submitted a letter in support of the Application from the adjacent neighbor; that the deck will not be enclosed; that this deck has also been approved by the HOA; that the size of the deck will be 10 feet wide by 30 feet long; that the home is served by public water and sewer; that there will be no steps to the rear as it will be connected to the existing deck; that an elevated deck is being requested because the applicant has health issues and found the issues increased by pests when at ground level; that the property is part of a condominium with limited common elements; that he purchased the property in 2002; that previously the house was as a rental unit but will be the permanent dwelling when the Applicant retires; that a smaller deck would not accommodate the entire family without the addition; that the deck went onto the neighboring lot and is being corrected with this proposal; and that there is no fence to the side yard.

Mr. Brennan testified that the insurance for the limited common elements is covered by homeowner's insurance and by the HOA master policy; that the association's master policy would not cover the deck; that the Applicant would have to get separate insurance for the deck; that he has a similar deck on his unit; that the Applicant wanted a 14 foot deck but that was denied; that he felt a 10 foot deck was fair; that homes are attached by sheds; and that this property has an odd lot line.

The Board found that Mr. Brennan appeared in support of and no one appeared in opposition to the Application.

Mr. Williamson closed the public hearing.

Dr. Carson moved to approve Case No. 12514 for the requested variance for the following reasons: that the property has unique physical conditions; that the variance will not alter the essential character of the neighborhood; and that the variance represents the minimum variance necessary to afford relief.

Motion by Dr. Carson, seconded by Mr. Chorman, carried that the **variance be granted for the reasons stated.** Motion carried 5 – 0.

The vote by roll call; Mr. Workman – yea, Mr. Williamson – yea, Dr. Carson – yea, Mr. Hastings – yea and Mr. Chorman - yea.

Recess
6:50 p.m. – 7:30 p.m.

Mr. Whitehouse thanked the Board members and members of the public for their patience for the elongated recess this evening. There is an issue with the live feed through the County website; that the teleconference system is working, and the meeting should continue in the next 5 – 10 minutes.

Case No. 12535 – FDPN Management, LLC seeks a special use exception for a potentially hazardous use (Concrete crusher to support the manufacturing and recycling associated with a concrete batch plant) (Sections 115-110, 115-111 and 115-210 of the Sussex County Zoning Code). The property is located on the west side of Sussex Highway (Rt. 13) approximately 0.33 mile north of Cannon Road. 911 Address: 20354 Sussex Highway, Seaford. Zoning District: HI-1. Tax Parcel: 131-19.00-5.00

Mr. Whitehouse stated that the Applicant submitted a letter this afternoon with a request to withdraw the Application; that letter has been distributed to members of the Board; and that the Applicant is here to respond to any questions that the Board may have about that request.

Mr. Sharp stated that, because the letter was not submitted more than two business days before the hearing, it is necessary for the Board to vote on the withdrawal request.

Mr. Mike Reiman stated that a letter was submitted on behalf of the Applicant to withdraw the Application; that the Applicant received a large amount of correspondence from the community on Friday; that the Applicant could not meet the deadline to withdraw as they did not have the

information until after the deadline for a withdrawal; and that the Applicant would like to take the time to review all the correspondence and see how they can address the concerns of the area residents.

Motion by Dr. Carson, seconded by Mr. Chorman, carried unanimously to approve the request to withdraw the Application. Motion carried 5 – 0.

The vote by roll call; Mr. Workman – yea, Mr. Williamson – yea, Dr. Carson – yea, Mr. Hastings – yea and Mr. Chorman - yea.

ADDITIONAL BUSINESS

There was no additional business.

Meeting adjourned at 7:40p.m.