

MINUTES OF MARCH 16, 2015

The special meeting of the Sussex County Board of Adjustment was held on Monday, March 16, 2015, 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 Dale Callaway presiding. The Board members present were: Mr. Dale Callaway, Mr. John Mills, Mr. Brent Workman, Mr. Jeff Hudson, and Mr. Norman Rickard, with Mr. James Sharp – Assistant County Attorney, and staff members, Mr. Lawrence Lank – Director of Planning and Zoning, Ms. Janelle Cornwell – Planning and Zoning Manager, and Mrs. Jennifer Norwood – Recording Secretary.

Motion by Mr. Mills, seconded by Mr. Rickard, and carried unanimously to approve the Agenda as circulated. Motion carried 5 – 0.

In summary, the Board discussed the following:

1. General Discussion of Rules of Procedures:

Mr. Sharp drafted revisions to the Rules of Procedure for the Board of Adjustment. Mr. Sharp read the proposed revisions. The Board discussed the proposed revisions. The Board members were given copies of the proposed revisions to review. Mr. Sharp asked the Board members to contact him with any questions, comments, or changes they may have about the revisions. The Board recommended adding the Pledge of Allegiance to the agenda for upcoming meetings. The Board will be adding this matter as Other Business on an upcoming Agenda to finalize the updates to the Rules of Procedure for the Board of Adjustment.

The Board reviewed a proposed revised variance/special use exception application form. The Board supported the changes to the form. The Board discussed concerns that many Applicants are not aware of the appeal period following approval of their request. Mr. Sharp stated that he could make a statement before hearings that decisions are preliminary until the written findings of fact are approved.

2. General Discussion of Issues Relating to Signs:

Mr. Sharp presented a letter regarding off-premise signs for submittal to the Sussex County Council. The Board reviewed the letter and stated their concerns with the sign ordinance. The Board discussed issues about the “brightness” of LED signs and signs which do not to exceed 15% total square footage of wall area where a wall exceeds 1,000 feet. The Board discussed a request from the Delaware Department of Transportation (“DelDOT”) asking for an opportunity to review pending applications for off-premise signs. DelDOT would like to offer comments and concerns to the Board for public hearings for off-premise signs. The Board also discussed whether off-premise sign applicants should submit reasons for not using nearby vacant off-premise signs.

3. General Discussion of Variances and Their Standards:

Mr. Sharp and the Board discussed the standards for granting a variance. Mr. Sharp went over the importance of the Applicant addressing all five (5) standards when seeking a variance request. Mr. Sharp stated that there are three standards which tend to be particularly challenging for applicants: 1) that uniqueness must show something inherent with the property; 2) that there is an exceptional practical difficulty that has not been created by the Applicant; and 3) that the variance is necessary for the reasonable use of the property. Mr. Sharp encouraged the Board members to ask questions and to look at each case individually. Board members must address each standard, whether the Applicant has met the standard or not, and state the reasons why, or why not, the Applicant has met the standard.

4. General Discussion of Special Use Exception and its Standards:

Mr. Sharp and the Board discussed the standards for granting a special use exception. Mr. Sharp stated that the Board has done a great job in making sure this standard is met. Mr. Sharp stated that the Board could elaborate on its approvals when appropriate by stating the use does not exude extra noise or illumination to neighboring and adjacent properties. Mr. Sharp cautioned Board members to remember that in certain applications, such as with cell towers, other standards must be met as well. The Board stated they would like to see letters of confirmation submitted from cell tower applicants stating other nearby tower sites were not available for co-location.

5. General Discussion of Issues and Concerns of Board Member:

Mr. Sharp advised the Board that if members are familiar with a property they must state that for the record. Board members are not to visit sites. The Board asked Mr. Sharp why he sometimes asks questions of the Applicant. Mr. Sharp stated that he is just clarifying the record or building the record for the Board to make its decision.

Meeting Adjourned 9:10 p.m.