



BOARD OF ADJUSTMENT

AGENDAS & MINUTES

MINUTES OF MARCH 17, 2008

The regular meeting of the Sussex County Board of Adjustment was held on Monday March 17, 2008, 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, Mr. Norman Rickard, Mr. Russell Warrington and Mrs. Kelly Passwaters – Recording Secretary.

Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously to approve the Revised Agenda. Vote carried 5 – 0.

Motion by Mr. Hudson, seconded by Mr. Mills, and carried unanimously to approve the Minutes of March 3, 2008 as circulated. 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. 10085 – Fred L. Hopkins- east of Road 305, 2.050 feet south of Road 48.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Fred Hopkins was sworn in and testified requesting a 6-foot variance from the required 10-foot side yard setback requirement; that he would like to place a 14' x 66' manufactured home; that he replaced the septic system; that the home will be for his daughter; and that he has obtained a placement permit for the manufactured home.

Mr. Rickard stated the office received 1 letter 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 variance be **granted since it meets the standards for granting a variance and since the lot size is unique**. Vote carried 5 – 0.

Case No. 10086 – Joyce and Earl Jefferson, Jr.- north of Road 485.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Earl Jefferson was sworn in and testified requesting a 12-foot variance from the required 15-foot side yard setback requirement; that he would like to replace the existing 10' x 10' building; that the new building will measure 30' x 32'; that he would like to place it on an existing slab; that the neighbor has no objections; and that he has obtained a building permit.

Mr. Rickard stated the office received 1 letter in support of the application.

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

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

Case No. 10087 – Walter F. Moore- west of Route One, corner of Daisey Road and Bay Road, being Lots 49 and 50 within Truitts Suburban Development.

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

Mr. Rickard presented the case. Thomas Moore and Allen Jarmon were sworn in and testified requesting a 5.2-foot variance from the required 30-foot front yard setback requirement and a 13.5-foot variance from the required 30-foot front yard setback requirement for a through lot; that they purchased the property in 1975; that the property is unique in shape; that it is a through lot; that the property is being sold; and that the encroachment was discovered when a survey was done.

The Board found that 1 party appeared in support of the application.

The Board found that no parties appeared in opposition to 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. 10088 – George Lobenhofer- east of Route 5, south of Rivers Edge Road, being Lot 54, Phase 2 within Stonewater Creek development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. George Lobenhofer was sworn in and testified requesting a 2-foot variance from the required 15-foot side yard setback requirement; that his original plan was for a 20' x 12' deck to be built; that when he measured the deck after completion it measured 22' x 12'; and that he received a violation notice from Sussex County Planning & Zoning Department that stated he needed to be 10-feet from the side yard.

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 case be taken under advisement. Vote carried 5 – 0.

At the conclusion of the public hearings, the Chairman referred back to his case. Motion by Mr. Hudson, seconded by Mr. Workman, and carried unanimously that the case be **tabled until the April 7, 2008 meeting for more information in reference to the building permit.** Vote carried 5 – 0.

Case No. 10089 – Randy and Kathy Hill- north of Road 78, 4 feet west of Road 487A, being Lot 1.

A variance from the minimum square footage requirement for a parcel.

Mr. Rickard presented the case. Randy Hill was sworn in and testified requesting a variance a 6,264-square foot variance from the required 32,670-square foot requirement for a parcel; that he would like to subdivide the existing parcel; that a 10-foot right of way is dedicated to public use; and that he has a letter of no objection from DelDot.

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 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. Workman and carried unanimously that the variances be **denied since it does not meet the standards for granting a variance since it enables reasonable use of the property and since it was created by the applicant.** Vote carried 5 – 0.

Case No. 10090 – Keywest Investments LLC- south of Route One, 750 feet north-west of Road 88.

A variance from the maximum height requirement for a billboard.

Mr. Rickard presented the case. Darlene Matthes was sworn in and testified requesting a 20-foot variance from the maximum 25-foot height requirement for a billboard; that they would like to raise the existing billboard that is on a steal monopole; and that the billboard is blocked in the south bound direction due to trees.

Walter Wilson was sworn in along with Shannon Carmean, Attorney, present on behalf of the opposition and testified stating that Mr. Wilson is the owner of the two (2) adjoining lots; that he also owns eighteen (18) additional lots in Red Fox Run; that the trees were planted in 2005 as a buffer; that he has owned the adjoining property for eight (8) years; that the trees create privacy for the property owners; that if the billboard is raised an additional 20-feet that strong winds could possibly knock it down; and that they would like to see it moved to another location on the property.

In Rebuttal, Darlene Matthes, stated that the billboard could remain at its current height requirement; that it was placed three (3) years ago; that she believes it meets the standards for granting a variance; that the lot is narrow and cannot be moved; and the if the billboard cannot be seen due to trees then nobody would want to rent the space.

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

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

The office received nine (9) letters in opposition to the application that were not read into the record.

Motion by Mr. Workman, seconded by Mr. Hudson, and carried unanimously that the case be **tabled until the April 7, 2008 meeting**. Vote carried 5 – 0.

Case No. 10091 – Raymond Childs- northeast of Road 507, 1,425 feet west of Road 507.

A variance from the minimum acreage to place a manufactured home.

Mr. Rickard presented the case. Raymond Childs was sworn in and testified requesting to place a manufactured home on less than 10 acres; that the existing home was damaged due to fire; that it was replaced four (4) years ago; that it measures 16' x 80'; and that no placement permit was obtained.

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 **left open for the applicant to submit a survey**. Vote carried 5 – 0.

Case No. 10092 – Don and Irma Codey- east of Route 54, east of Grant Avenue, being Lot 23, Block 6 within Cape Windsor development.

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

Mr. Rickard presented the case. Brett Reilly was sworn in and testified on behalf of the applicant and stated that the applicant would like to replace the existing home with a new two story home; that the existing home will be removed; and that other variances in the area have been approved.

Charles Lempke was sworn in and stated that he didn't think any plans had been submitted to the Homeowners Association.

In Rebuttal, Brett Reilly, stated that the Homeowners Association wants approval from Sussex County first; and that the new home plans have not been finalized yet.

Sharon Miles was sworn in and testified stating that she is a member of the Homeowners Association; and that the applicant has not submitted plans to the Homeowners Association.

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 the lots are small and since it will not alter the essential character of the neighborhood.** Vote carried 5 – 0.

Case No. 10093 – Teri C. Moore- west of Road 258, south of Beverly Lane, being Lot 26, Phase IV within Creek Falls Farm development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Teri Moore was sworn in and testified requesting a 5-foot variance from the required 15-foot side yard setback requirement; that she would like to place an addition on the existing home; that she cannot build on the west side of the home; that she would like to request a 5.6-foot variance; and that the neighbor does not object.

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 variance be **granted since the neighbor has no objections and since it will not alter the essential character of the neighborhood.** Vote carried 5 – 0.

Case No. 10094 – George H. and Sharon A. Miles- east of Grant Avenue, 1,200 feet south of Lincoln Drive, being Lot 28, Block 6 within Cape Windsor development.

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

Mr. Rickard presented the case. Sharon Miles was sworn in at a previous hearing and testified requesting a 5-foot variance from the required 20-foot rear yard setback requirement, a 4-foot variance from the required 15-foot rear yard setback requirement and a 5-foot variance from the required 10-foot side yard setback requirement; that she would like to replace the existing home; that it would be 15-feet from the bulkhead; and that the deck will be 11-feet from the bulkhead.

The Board found that 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 variances be **granted since it will not alter the essential character of the neighborhood and since other variances have been approved in the area.** Vote carried 5 – 0.

OLD BUSINESS

Case No. 9483 – Dawn Smith- south of Route One, northwest of Atlantic Avenue, being Lot E-30 within Sea Air Mobile City Mobile Home Park.

A variance from the separation requirement between units in a mobile home park and a variance from the side yard and rear yard setback requirement.

The Board discussed the case, which has been tabled since May 1, 2006.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variances be **denied.** Vote carried 5 – 0.

Case No. 9866 – S. Carter Knotts- south of Route 22, being Lot 34 within White House Beach Mobile Home Park.

A variance from the side yard setback requirement.

The Board discussed the case, which has been tabled since June 18, 2007.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the case be **tabled for the office staff to contact the applicant**. Vote carried 5 – 0.

Case No. 10071 – Kenneth Philcox- east of Road 258, being Lot 17 within Eagle Crest development.

A variance from the side yard setback requirement.

The Board discussed the case, which has been tabled since February 25, 2008.

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**. Vote carried 5 – 0.

Case No. 10082 – Bethany Breeze- south of Road 368, west of Road 361, being Units 679, 681, 683, 684, 686 and 688 within Bethany Breeze Condominium, Phase 6.

A variance from the separation requirement between units.

The Board discussed the case, which has been tabled since March 3, 2008.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the application for Case No. 9925 for Unit 684 be reheard since the application is substantially different from the original application heard on September 10, 2007.

Motion by Mr. Hudson, seconded by Mr. Mills, 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. 10062 – William and Karen Keyser- north of Atlantic Avenue, being Lot E-68 within Sea Air Mobile City Mobile Home Park.

A variance from the separation requirement between units in a mobile home park.

The Board discussed the case, which has been tabled since February 25, 2008.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the case be **tabled until the April 7, 2008 meeting for the office staff to check on the percentage of lot coverage**. Vote carried 5 – 0.

Meeting Adjourned @ 9:05 p.m.