



BOARD OF ADJUSTMENT

AGENDAS & MINUTES

MINUTES OF MAY 18, 2009

The regular meeting of the Sussex County Board of Adjustment was held on Monday May 18, 2009, 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. Dean Malloy and Mrs. Kelly Passwaters – Recording Secretary.

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

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously to approve the Minutes of May 4, 2009 meeting as circulated with the correction to revise the support/opposition on Case No. 10394. 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. 10399 – Irma Ball- north of Road 506, 610 feet south of Road 498.

A special use exception to place a manufactured home on a medical hardship basis.

Mr. Malloy presented the case. Irma Ball was sworn in and testified requesting a special use exception to place a manufactured home on a medical hardship basis; that the manufactured home is currently located in Delmar, Delaware; that she would like to move it from the current location to her property in case she needs help from family members; that she does not plan on renting the unit; that the manufactured home will not be occupied until she gets the septic system in place; and that the manufactured home currently located on the property is used for storage purposes only.

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

Motion by Mr. Workman, seconded by Mr. McCabe, 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. Hudson, and carried unanimously that the special

use exception be **granted for a period of 2 years with the stipulation that nobody resides in the home unless or until it is for her care.** Vote carried 5 – 0.

Case No. 10400 – Flexera, Inc. - south of Lighthouse Road, east of Roosevelt Avenue, being Lot 28, Block 7 within Cape Windsor development.

A special use exception to place a windmill.

Mr. Malloy presented the case. Finn McCabe and Robert Light were sworn in and testified requesting a special use exception to place a windmill; that it will be the Helix Wind model; that it has very little impact on the bird population; that it increases the property value; that the neighbors have no objection; that the foundation is designed for a specific type of soil; that the windmill is rated for 150 mph winds; and that it is rated in the five (5) decibel range.

Beverly Hogate was sworn in and testified in opposition to the application and stated she lives two (2) doors down from the applicant; that the next door neighbor is in opposition to the placement of the windmill; that they are small lots; that she will see the windmill when she looks out her front door; that she has concerns with noise; that the windmill will ruin the appearance of the community; that it will decrease property value; and that if approved it will set a precedence for all small communities.

Bernard Bowerman was sworn in and testified in opposition to the application and stated he lives two (2) streets from the applicant; that there would be a possibility of 249 windmills in the community if approved; and that the lots are small.

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

Mr. Malloy stated the office received 3 letters in support of the application.

The Board found that 5 parties appeared in opposition to the application.

Mr. Malloy stated the office received 73 letters 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 this case. Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously that the case be **tabled until June 1, 2009**. Vote carried 5 – 0.

Case No. 10401 - William and Sharon Mahjoubian- south of Route One, northwest of Road 271, being Lot A-80 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 maximum allowable lot coverage requirement in a mobile home park.

Mr. Malloy presented the case. William Mahjoubian was sworn in and testified requesting a 6-foot variance from the required 20-foot separation requirement between units, a 7.7-foot variance from the required 20-foot separation requirement between units and a 58.44-square foot variance from the required 35% lot coverage requirement; that he would like to place a 8 x 10 shed to the rear of the home; and that the shed would be used for storage.

Jeanne Sisk was sworn in and testified in support of the application and stated that she did not know sheds needed a variance; that variances were not needed previously for sheds; that the lots are small; and that he needs a place to store his belongings so they are not sitting outside.

The Board found that 6 parties 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. McCabe, and carried unanimously that the case be **tabled until all violations are corrected within the park.** Vote carried 5 – 0.

Case No. 10402 – Sea Breeze, LP- south of Route One, northwest of Road 271, being Lots H5, H7, H9, H11 and H13 within Sea Air Mobile City Mobile Home Park.

A variance from the 50' buffer requirement in a mobile home park.

Mr. Malloy presented the case. Cindy Suface was sworn in along with David Hutt, Attorney, and testified requesting a variance from the 50-foot buffer requirement in a mobile home park; that they would like to consolidate five (5) recreational vehicle sites into one (1) manufactured home site; that they received conceptual approval from the Planning & Zoning Commission on March 1, 2006; that the proposed manufactured home lot would contain 5,558-square feet; that there would still be twelve (12) travel trailer lots along this section; that a variance would not be needed if a new home was placed; that a fence surrounds the entire community; that the park is non-conforming; that

she passed around a petition to the homeowners in reference to the application and most were in favor; that there is not a 50-foot buffer located between Sea Air and adjacent developments; that the notice of violation that is holding up the application process was issued in May 2008.

Roberta Hemmerich was sworn in and testified in opposition to the application and stated that she serves on the Board of Manufactured Home Association; that she read

a letter in opposition into the record; that what happens in one community affects all communities; and that the purpose of this application is for profit.

Jeanne Sisk whom was sworn in at the previous hearing testified in opposition to the application and stated the lots are small; that she has no problems with new manufactured homes coming into the park; and that currently there is flooding along Dodd Ave within Sea Air.

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

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

Mr. Malloy stated the office received 3 letters in opposition.

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 this case. Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the case be **tabled until June 1, 2009**. Vote carried 5 – 0.

Case No. 10403 – Baywood, LLC- south of Green Road, 1, 000 feet east of Banks Road, within Bridlewood At Baywood.

A variance from the maximum height requirement for a structure.

Mr. Malloy presented the case. Robert Tunnel, III was sworn in along with Gene Bayard, Attorney, and testified requesting a 22-foot variance from the required 42-foot maximum height requirement and a 9-foot variance from the required 42-foot maximum height requirement; that the subdivision was approved for 596 homes; that there will be a forty-eight (48) stable barn; that there will be an indoor/outdoor riding arena; that there will be 1.5 miles of riding trails; that the height variance is needed to support a healthy environment for the horses to live; that the barns are designed to harness wind and sun in order to ventilate vertically and light naturally; that the barns will be constructed of natural wood with stone and a metal roof; and that the nearest dwelling is located approximately 950-feet.

Mike Roca was sworn in and testified in opposition to the application and stated he is not sure why a height variance is needed.

In Rebuttal, Mr. Tunnell explained to the opposition the need for a height variance.

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. Workman and carried unanimously that the variances be **granted since it will not alter the essential character of the neighborhood.** Vote carried 5 – 0.

Case No. 10404 – Steve N. Meredith- east of Spicer Road, 100 feet southeast of Route 16, being Lot 1.

A variance from the maximum age requirement for placement of a manufactured home.

Mr. Malloy presented the case. Steve Meredith was sworn in and testified requesting a variance from the maximum age requirement for placement of a manufactured home; that he purchased a manufactured home that is seven (7) years old; that the septic system has already been placed; that the manufactured home will be placed on a block foundation; and that currently the manufactured home is located approximately 300-yards away and will be moved to his property.

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

Motion by Mr. Workman, seconded by Mr. Hudson, and carried unanimously 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 5 – 0.

Case No. 10405 – Joseph E. Bittner, Jr.- north of Route 54, 200 feet west of Road 346.

A variance from the front yard setback requirement.

Mr. Malloy presented the case. Joseph and Paula Bittner were sworn in and testified requesting a 10-foot variance from the required 40-foot front yard setback requirement; that they would like to construct a screen porch on the front of the house; that the porch will measure 10' x 26'; and that they have owned the property for 17 years.

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 it will not alter the essential character of the neighborhood and since it is an odd shaped lot.** Vote carried 5 – 0.

Case No. 10406 – Elaine D. Willey- west of Mt. Pleasant Road (Road 493), being Lot 29 within North Towns End development.

A variance from the rear yard setback requirement.

Mr. Malloy presented the case. Elaine Willey was sworn in and testified requesting a 4.2-foot variance from the required 20-foot rear yard setback requirement; that her daughter and ex son-in-law constructed a garage; that the house was going into foreclosure and she paid to get it out; and that the house is now being sold and the violation was discovered when surveyed.

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. Hudson, seconded by Mr. Mills, and carried unanimously that the variance be **granted since it meets the standards for granting a variance.** Vote carried 5 – 0.

OLD BUSINESS

Case No. 10354 – Jerry E. Yates- east of Second Street, 27 feet south of Providence Road.

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

The Board discussed the case, which has been tabled since April 20, 2009.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the case be **tabled for the applicant to apply for a variance for the existing structure.** Vote carried 5 – 0.

Case No. 10384 – Pat Quillen and Quillen Signs- north of Route 54, intersection east of Bennett Avenue, being Lots 7 through 15.

A special use exception to place billboards and a variance from the maximum height requirement for billboards.

The Board discussed the case, which has been tabled since May 4, 2009.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the case be **denied since billboards are not allowed in the B1 zoning and that the applicant be refunded the application fee.** Vote carried 5 – 0.

Case No. 10387 – Frances A. Wisniewski- west of Route One, west of Virginia Avenue, being Lot 13, Section 3 within Bayside development.

A variance from the front yard setback requirement.

The Board discussed the case, which has been tabled since May 4, 2009.

Motion by Mr. Hudson, seconded by Mr. McCabe, and carried unanimously that the variance be **granted since it will not alter the essential character of the neighborhood, since it enables reasonable use of the property and since it was not created by the applicant.** Vote carried 5 – 0.

Case No. 10392 – Flexera- northeaset of Road 357, east of Bayfront Drive, being Lot 25 within Quillens Point development.

A special use exception to place a windmill.

The Board discussed the case, which has been tabled since May 4, 2009.

Motion by Mr. Hudson, seconded by Mr. McCabe, and carried unanimously that the special use exception be **denied.** Vote carried 5 – 0.

Case No. 10393 – Wayne K. and Mary Lou Fritz- southwest of Bowden Street, northeast of Elizabeth Street, being Lot 34 within Bowden Acres development.

A variance from the front yard setback requirement.

The Board discussed the case, which has been tabled since May 4, 2009.

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 and since it was not created by the applicant.** Vote carried 5 – 0.

Meeting adjourned at 9 :10 P.M.

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