



# BOARD OF ADJUSTMENT

## AGENDAS & MINUTES

### MINUTES OF MAY 3, 2010

The regular meeting of the Sussex County Board of Adjustment was held on Monday May 3, 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. Brent Workman, with Mr. Richard Berl – Assistant County Attorney and staff members, Mrs. Susan Isaacs, Chief Zoning Inspector, and Mrs. Kelly Passwaters – Recording Secretary.

Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously to approve the Revised Agenda as circulated. Vote carried 4 – 0.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously to table the Minutes of the April 19, 2010 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. 10606 – Peter P. DeMarie, II-** west of Route One, south of Bayberry Road, being Lot 3 within Middlesex Beach.

A special use exception to place a manufactured home as an office and a variance for an additional ground sign.

Mrs. Isaacs presented the case. John Murry and Peter DeMarie was sworn in and testified requesting a special use exception to place a manufactured home as an office and a variance for one (1) additional ground sign; that the manufactured home has been on the property for approximately two (2) years; that it is used as a sales office; that they would like to use the temporary sales trailer until a permanent building is constructed; that they will possibly begin construction in September 2010; that it will take two (2) years to complete construction; that there are currently two (2) ground signs located on the property; that the signs will be removed once the new building is constructed; that he did not obtain a trailer permit for the trailer; and that he received approval from the Middlesex Beach Homeowners Association.

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

Mrs. Isaacs stated the office received three (3) letters in opposition to the application.

Motion by Mr. McCabe, seconded by Mr. Workman, and carried unanimously that the case be taken under advisement. Vote carried 4 – 0.

At the conclusion of the public hearing the Chairman referred back to this case. Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the special use exception and variance be **granted for a period of two (2) years with the existing signs**. Vote carried 4 – 0.

**Case No. 10607 – Norman Chapman-** north of Route 54, east of Canvasback Road, being Lot 24, Block D within Swann Keys development.

A variance from the side yard setback requirement.

Mrs. Isaacs presented the case. Darrell Grier was sworn in and testified on behalf of the applicant requesting a 6.8-foot variance from the required 10-foot side yard setback requirement on the left side and a 3.6-foot variance from the required 10-foot side yard setback requirement on the right side; that the applicant would like to replace the existing manufactured home; that the new home will measure 24' x 59'; and that the front steps will not be covered.

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 lot is small, and since many variances have been granted in the area**. Vote carried 4 – 0.

**Case No. 10608 – Delaware Marine Trade Association-** northeast of Route One, 1,800 feet northwest of Road 271.

A special use exception for outdoor display or promotional activities.

Mrs. Isaacs presented the case. Marvin Kahl and Donald Short was sworn in and testified requesting a special use exception for outdoor display or promotional activities; that the boat show will be located in the Kmart parking lot in Rehoboth Beach; that it will be for six (6) days during the month of June; and that they have had a boat show at that location before.

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

Motion by Mr. Mill, seconded by Mr. McCabe, and carried unanimously that the special use exception be **granted for a period of five (5) years limited to six (6) days during the month of June, and that notice be sent to the Planning & Zoning Department in reference to the dates.** Vote carried 4 – 0.

**Case No. 10609 – Margaret A. Cleveland-** north of Route 54, west of Canvasback Road, being Lot 95, Block D within Swann Keys development.

A variance from the side yard setback requirement.

Mrs. Isaacs presented the case. David Epperson was sworn in and testified requesting a 2-foot variance from the required 10-foot side yard setback requirement on both sides and a 4-foot variance from the required 10-foot side yard setback requirement for an AC unit; that the applicant would like to replace the existing manufactured home; that the new home will measure 24' x 64'; and that the steps will not be covered.

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 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. 10610 – Jonathan and Kathy Zeleznick-** south of Road 358, north of Bow Street, 150 feet east of Wango Lane, being Lot 17, Section 2 within Holly Ridge Terrace development.

A variance from the side yard setback requirement.

Mrs. Isaacs presented the case. Jonathan and Kathy Zeleznick were sworn in and testified requesting a 6-foot variance from the required 10-foot side yard setback requirement for a proposed garage; that they would like to construct a garage that measures 24' x 30'; and that they would like to keep the new garage square with the existing house and driveway.

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 it enables reasonable use of the property, and since it will not alter the essential character of the neighborhood.** Vote carried 4 – 0.

**Case No. 10611 – Ronald Messick-** southwest of Road 224B, 1,100 feet south of Road 224.

A variance from the side yard setback requirement.

Mrs. Isaacs presented the case. Lori Hollen was sworn in and testified on behalf of the applicant requesting a 5-foot variance on both sides from the required 10-foot side yard setback for a proposed manufactured home; that the applicant inherited the property from his mother; that he would like to place a 24' x 44' manufactured home on the property to make the property more desirable for resale; and that he cannot move the home due to the location of the septic system.

Arthur Carlisle and Judith Ramirez were sworn in and testified in opposition to the application and stated that the lot is too small to place that size manufactured home; that it will encroach on his property; and that they would like to see a smaller home placed on the lot.

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

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

Motion by Mr. Mills, seconded by Mr. McCabe 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. Mills, seconded by Mr. Workman, and carried unanimously that the variance be **denied since it does not meet the standards for granting a variance**. Vote carried 4 – 0.

**Case No. 10612 – Jonathan K. and Janet S. Korol-** east of Route One, north of Dukes Road, being Lot 9, Block 3 within Sussex Shores Development.

A variance from the side yard setback requirement.

Mrs. Isaacs presented the case. Kenneth Feaster was sworn in and testified on behalf of the applicant requesting a 2-foot variance from the required 10-foot side yard setback requirement for a dwelling; that the applicant purchased the property in January 2010; that a survey was obtained showing the home in violation; that when the structure was initially built it was in compliance with the then current setback requirements; that the portion of the dwelling on the west side was originally an unenclosed part of the home but was renovated at a later date which then made it subject to the current setback requirements, and that it would cause a hardship to remove a portion of the home.

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

Mrs. Isaacs stated the office received 2 letters in support of the application.

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, and since it is the minimum variance to afford relief**. Vote carried 4 – 0.

**Case No. 10613 – Christopher J. Runde-** east of Route 16, south of Beach Plum Drive, being Lot 10, Block B, Section 2 within North Shores Development.

A variance from the front yard setback requirement.

Mrs. Isaacs presented the case. Chris Hutchinson, Attorney, testified on behalf of the applicant requesting a 0.3-foot variance from the required 30-foot front yard setback requirement for an existing dwelling and a 8-foot variance from the required 25-foot front yard setback requirement for steps; that a survey was done in 1998 that shows the home met the front yard setback requirement; that when a survey was done in 2009 by a different surveyor it shows the home does not meet setback requirements; and that the owner does not plan to add onto 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. Workman, and carried unanimously that the variances 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 4 – 0.

**Case No. 10614 – Design Consultants Group LLC-** west of Route One, 300 feet south of Jefferson Bridge Road, being Units 17, 18, 19, 20, 22, and 23 within Bethany Shore.

A variance from the side yard setback requirement.

Mrs. Isaacs presented the case. Mark Davidson and Theodore Kent were sworn in and testified requesting a 4.6-foot variance from the required 10-foot side yard setback requirement for Unit 17, a 7.5-foot variance from the required 10-foot side yard setback requirement for Unit 18, a 7.6-foot variance from the required 10-foot side yard setback requirement for Unit 19, a 4.4-foot variance from the required 10-foot side yard setback requirement for Unit 20, a 3.9-foot variance from the required 10-foot side yard setback requirement for Unit 22, and a 3.9-foot variance from the required 10-foot side yard setback requirement for Unit 23; that decks exist on Units 17, 18, 19, 20, 22, and 23; that the decks back up to wooded property that is owned by the Homeowners association; that other units have decks; and that the decks measure approximately 10' x 18'.

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 variances be **granted since it will not substantially affect adversely the uses of adjacent and neighboring properties.** Vote carried 4 – 0.

### **OLD BUSINESS**

**Case No. 10602 – Country Rest Home, Inc. -** south of Route 16, 375 feet east of Road 585.

A variance from the front yard, side yard and rear yard setback requirements, and a variance from the minimum square footage requirement for a parcel.

The Board discussed the case, which has been tabled since April 19, 2010.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the variances be **granted since it will not alter the essential character of the neighborhood, since it is a minimum variance to afford relief, and since it enables reasonable use of the property.** Vote carried 4 – 0.

**Case No. 10605 – Bruce Stoehr-** southwest of Route 54, south of Wilson Avenue, being Lot 15, Block 3 within Cape Windsor development.

A variance from the side yard setback requirement.

The Board discussed the case, which has been tabled since April 19, 2010.

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, and since it is a minimum variance to afford relief.** Vote carried 4 – 0.

**Meeting Adjourned at 8:20 P.M.**

