



BOARD OF ADJUSTMENT

AGENDAS & MINUTES

MINUTES OF NOVEMBER 1, 2010

The regular meeting of the Sussex County Board of Adjustment was held on Monday, November 1, 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, Mr. Brent Workman and Mr. Jeff Hudson, with Mr. Richard Berl – Assistant County Attorney and staff members, Mrs. Susan Isaacs – Chief Zoning Inspector, and Mrs. Jennifer Norwood – Recording Secretary.

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

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of October 18, 2010 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. 10719 – First State Signs – southwest of Route One, east of Sea Air Avenue.

A special use exception for an off-premise sign and a variance from the front yard and side yard setback requirements.

Mrs. Isaacs presented the case. Dale McCallister was sworn in and testified requesting a special use exception for an off-premise sign and a 20-foot variance from the required 25-foot front yard setback requirement and an 8.13-foot variance from the required 20-foot side yard setback requirement for a ground sign; that the sign is needed for the existing building behind the new PNC Bank; that the new bank blocks the view of the existing building from Route One; that the sign will be a monument style ground

sign; that the sign will measure 8'x 20' with a 3'x 10' LED message board; that the sign will not exceed 15-foot in height; that the proposed sign will not alter the character of the neighborhood; that without the proposed sign they have not been able to lease the existing building; that all three parcels are owned by the same owner; that the proposed variances will allow a safer traffic pattern in and out of the shopping center; and that the proposed sign will not block the view of any existing signs in the immediate area.

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 special use exception and the variances be **granted with the stipulation that the**

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sign only be used for a tenant leasing the rear building since it will not alter the character of the neighborhood. Vote carried 5 – 0.

Case No. 10720 – Norman Jackson, III – northeast of Road 88, 308 feet southeast of Road 257.

A variance from the minimum lot size requirement.

Mrs. Isaacs presented the case. Norman Jackson, III was sworn in and testified requesting a 10,890-square-foot variance from the required 32,670-square-foot minimum lot size requirement; that the property has been in his family since the 1950's; that the property has since been subdivided and 2.7-acres remain; that on this 2.7-acre parcel are two non-conforming manufactured homes; that he plans to replace one manufactured home with a new modular dwelling; that he needs to subdivide the land so the bank will finance his dwelling; that the Planning & Zoning Commission has approved the subdivision pending the Board's approval; that DNREC has approved a septic system for the proposed new dwelling; that the uniqueness is the non-conforming units on the property; that the situation was not created by the Applicant; and that this will enable reasonable use of the property.

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

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variance be **granted since it meets the standards for granting a variance.**

Vote carried 5 – 0.

Case No. 10721 – Zoar United Methodist Church – southeast intersection of Road 48 and Route 30.

A variance from the front yard setback requirement.

Mrs. Isaacs presented the case. Stanley Johnson was sworn in and testified requesting a 30-foot variance from the required 40-foot front yard setback requirement for a proposed landing and stairs; that there are two sets of steps and a ramp now; that they want to incorporate the two sets of step into one landing and have steps and a ramp on each side of the church; that this will redirect foot traffic away from Route 30; that the uniqueness is the existing church is non-conforming; that it was not created by the Applicant; that it will not alter the character of the neighborhood; and that it is the minimum variance to afford relief.

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The Board found that no parties appeared in support of or 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.

Case No. 10722 Thomas and Lisa Kiracofe – east of Bayshore Drive, south of West Mint Place, being Lot 63 within Mulberry Knoll development.

A variance from the front yard setback requirement.

Mrs. Isaacs presented the case. Shannon Carmean, Attorney, on behalf of the applicant testified requesting a 2.3-foot variance from the required 30-foot front yard setback requirement for an existing dwelling; that the existing cantilevers on the dwelling encroach into the front yard setback requirement; that the property was sold at a Sheriff Sale to a bank and then sold to the Applicant; that a survey from 2003 showed the encroachment; that the dwelling was built in 1981; that it was not created by the Applicant; that it is necessary to enable reasonable use of the property; that it does not alter the character of the neighborhood; and that it is the minimum variance to afford relief.

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 variance be **granted since it meets the standards for granting a variance**.
Vote carried 5 – 0.

Case No. 10723 – Sea Breeze, LP – southwest of Route One, intersection of Atlantic and Greenview Avenue, being Lot F-1 within Sea Air Mobile City Mobile Home Park.

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

Mrs. Isaacs presented the case. Cindy Surface was sworn in with David Hutt, Attorney, and testified requesting a 2.4-foot variance from the required 20-foot separation requirement between units, a 6.3-foot variance from the required 20-foot separation requirement between units, a 10.1-foot variance from the required 20-foot separation requirement between units, a 1.6-foot variance from the required 20-foot separation requirement between units, and a 0.6-foot variance from the required 20-foot separation requirement between units in a mobile home park; that the mobile home park was created in the 1960's; that the lots are much smaller than the current code requires for mobile

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home parks; that the lot measures 4,000-square-foot; that the previous unit was destroyed in the snowstorm; that the proposed unit and shed will meet the 35% lot coverage requirement; that the sheds on the adjacent lots do not comply with the required setback requirements; that the manufacturer flipped the floor plan to better accommodate a home being placed on this site; that the plan allows room for a future deck; that the lot size makes this request unique; that the variances are necessary to enable reasonable use of the property; that the non-conforming mobile home park was not created by the Applicant; that it is the minimum variance to afford relief; and that the proposed unit and shed will not alter the character of the neighborhood.

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 variances be **granted since it meets the standards for granting a variance**.
Vote carried 5 – 0.

Case No. 10724 – Francois Verleysen and Walter Kotowski – east of Church Street, west of Atlantic Avenue, being Lot 20, Block A within Washington Heights development.

A variance from the side yard setback requirement.

Mrs. Isaacs presented the case. Francois Verleysen was sworn in and testified requesting a 10-foot variance from the required 10-foot side yard setback requirement for an existing shed; that he purchased the property a year ago; that for the past year he has renovated the existing cottage and built a new shed and BBQ area; that the new shed was built in the same place as the existing shed; that he built a sun roof over the BBQ area; that there is no other space on the property for the shed; that the variance is necessary to

enable reasonable use of the property; that the variance will not alter the character of the neighborhood; that he did not obtain a building permit to construct the shed; and that he submitted a petition and letters of support to the application.

The Board found that 3 parties appeared in support of the application.

Mrs. Isaacs stated that the office received 2 letters of support and a petition with 19-signatures in support of the application.

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

Mrs. Isaacs read 1 letter of opposition to the Board.

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Motion by Mr. Mills, 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. Workman, seconded by Mr. Hudson, and carried unanimously that the variance be **denied since it does not meet the standards for granting a variance**. Vote carried 5 – 0.

Case No. 10725 – Gary and Jeaneen Malinofsky – north of Route 54, west of Blue Teal Road, being Lot 13, Block B within Swann Keys development.

A variance from the side yard setback requirement.

Mrs. Isaacs presented the case. Bruce Stahr was sworn in and testified requesting a 5-foot variance from the required 10-foot side yard setback requirement for a proposed manufactured home and an 8-foot variance from the required 10-foot side yard setback requirement for an HVAC unit, fuel tank and steps with a landing; that the lot is narrow in size; that there are numerous variances in the development; that a variance was granted on this lot in 2004; that the proposed unit will measure 24-foot wide; that smaller units are available; and that the development was designed for single-wide units.

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 this case. Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the case be

left open to allow the Applicant to submit an alternative plan with less of a variance request. Vote carried 5 – 0.

Case No. 10726 – Beatrice Oliver, Elwood Oliver and Annie Oliver – north of Road 261 (Sweetbriar Road) south of Road 88 (Cave Neck Road).

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

Mrs. Isaacs presented the case. Beatrice Oliver and Kevin Smith were sworn in and testified requesting a 10-foot variance from the required 40-foot front yard setback requirement and a 19-foot variance from the required 40-foot front yard setback requirement for a proposed dwelling; that the existing dwelling was built in the 1960's; that the proposed dwelling will measure 28' x 60'; that the existing dwelling is in poor

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shape; that the proposed location of the new dwelling will not encroach the setback requirements as much as the existing dwelling; that the unique triangle shape of the lot creates difficulty to meet the required setback requirements; that they cannot build on the lot without a variance; that the variance is necessary to enable reasonable use of the property; that it was not created by the Applicant; and that it will not alter the character of the neighborhood.

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

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

Case No. 10727 – Dennis and Linda Goshert and Larry and Sally Hagy – west of Road 299, west of Branch Road, being Lot 3, Section B within Steele Land Development Corporation.

A variance from the minimum lot size requirement.

Mrs. Isaacs presented the case. Dennis Goshert and Linda Neilson were sworn in and testified requesting a 21,748-square-foot variance from the required 32,670-square-foot minimum lot size requirement; that he is a co-owner of the property; that they purchased the lot from the family in 2001; that they want to subdivide the lot back into two lots; that the existing garage is over the property line that could have been re-created to subdivide without any variances; that the existing garage is a large block structure; that

the variance will not alter the character of the neighborhood; that this is the minimum variance to afford relief; and that it was not created by the Applicant.

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 meets the standards for granting a variance**.
Vote carried 5 – 0.

Case No. 10728 – Wendy J. Grooms and Barbara L. Fishel – east of Road 273, north of Leeds Way, being Lot 30, Block 26, Section G within Rehoboth Beach Yacht and Country Club development.

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A variance from the side yard setback requirement.

Mrs. Isaacs presented the case. Barbara Fishel was sworn in and testified requesting a 5-foot variance from the required 10-foot side yard setback requirement for an existing inground pool; that 2-years ago she paid a contractor \$20,000 to install an inground pool; that he took her money and never installed the pool; that she advised the new pool dealer where to place the pool based on the first contractors plan; that the property is surrounded on three sides by streets in the development; that there is a tree line on the pool side which blocks view of the adjacent property; that the pool measures 12'x 35'; and that she did make the mistake of not verifying the setback requirements again after the first builder.

The Board found that 3 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. 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. McCabe, and carried unanimously that the case be **tabled until December 6, 2010**. Vote carried 5 – 0.

Case No. 10729 – Steven and Christina Ciamarra – west of Angola road, west of Angola Road West, being Lot 43 and part of Lot 42, Block N, Section 2 within Angola By The Bay development.

A variance from the rear yard setback requirement.

Mrs. Isaacs presented the case. Alfred Ciamarra was sworn in and testified requesting a 10-foot variance from the required 20-foot rear yard setback requirement for a proposed screen porch on an existing deck; that the proposed screen porch will measure 12'x 16'; that the rear of the property is adjacent to the common area of the development; that the Homeowner's Association has approved the screen porch; that the Applicant plans to move to the development permanently in 2-years; that the proposed location is the only location for the porch; that the Applicant plans to build an addition on the existing unit; that the addition will meet all required setback requirements; that the lot is small; that the property cannot otherwise be developed; that without the variance for the porch it will create a hardship on the family if they cannot build the future addition; and that there are numerous variances in the development.

The Board found that 2 parties appeared in support of the application.

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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 variance be **granted since it will not alter the character of the neighborhood**.
Vote carried 5 – 0.

Case No. 10730 – Mike Stough – northeast of Route 9, northeast of Colonial Lane, being Lot 20 within Colonial East Mobile Home Park.

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

Mrs. Isaacs presented the case. Michael Mox was sworn in and testified requesting a 4.10-foot variance from the required 20-foot separation requirement between units in a mobile home park for a proposed deck; that he recently purchased the unit; that the proposed deck will be built on an existing concrete pad; that the lot is narrow; that the variance will not effect existing parking on the lot; that the variance will enable reasonable use of the property; that it will not alter the character of the neighborhood; that the deck will add character and charm to the property; and that the proposed deck will not effect any emergency vehicles from reaching the unit or the surrounding units.

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. 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. McCabe, and carried unanimously that the case be **left open to allow for Counsel to review**. Vote carried 5 – 0.

OLD BUSINESS

Case No. 10697 – Saverio and Deborah Pulice – west of Road 412 north of Lakeview Drive, being Lot 22, Section 1 within Lakeview Estates development.

A variance from the side yard setback requirement.

The Board discussed the case which has been tabled since October 18, 2010.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the variance be **granted since it meets the standards for granting a variance**.

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Vote carried 5 – 0.

Case No. 10714 – Stephen R. Mihalik – north of Road 47, north of Road 302A.

A special use exception for a garage/studio apartment and a variance from the maximum square footage requirement for an apartment.

The Board discussed the case which has been tabled since October 18, 2010.

Motion by Mr. McCabe, seconded by Mr. Hudson, and carried unanimously that the case be **tabled until November 15, 2010**. Vote carried 5 – 0.

Case No. 10716 – Umberto V. Pomilio, III, Custodian – east of Road 16, east of Bayshore Drive, being Lot 9, Block A within Old Inlet Beach Section I.

A variance from the side yard setback requirement.

The Board discussed the case which has been tabled since October 18, 2010.

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.

Meeting Adjourned 9:20 p.m.