



BOARD OF ADJUSTMENT

AGENDAS & MINUTES

MINUTES OF NOVEMBER 15, 2010

The regular meeting of the Sussex County Board of Adjustment was held on Monday, November 15, 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. Everett Moore – Attorney and staff members, Mrs. Susan Isaacs – Chief Zoning Inspector, and Mrs. Jennifer Norwood – Recording Secretary.

Motion by Mr. Mills, 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. Hudson, and carried unanimously to approve the Minutes of November 1, 2010 as circulated. Vote carried 5 – 0.

Mr. Moore read a statement explaining how the Board of Adjustment meeting is conducted and the procedures for hearing the cases.

PUBLIC HEARINGS

Case No. 10731 – Craig H. Rabinowitz – east of Route 24, east of White Pine Drive, being Lot 162 within Pines At Long Neck Phase II.

A variance from the side yard setback requirement.

Mrs. Isaacs presented the case. Craig Rabinowitz was sworn in and testified requesting a 5-foot variance from the required 10-foot side yard setback requirement for a proposed porch; that the proposed porch will measure 11' x 36'; that the lot is only 60-foot wide; that the porch could only be 6-foot wide if built to meet the required setbacks; that the variance will enable reasonable use of the property; that the porch will provide access to the front door; that there are other porches in the development; that the porch will not alter the character of the neighborhood; that the neighbors are in support of the

application; that he submitted a letter from the Homeowner's Association in support of the application; and that he purchased the lot on September 20, 2010.

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 character of the neighborhood and is the minimum variance to afford relief**. Vote carried 5 – 0.

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Case No. 10732 – Robert Dobbs – west of Road 273A, southeast of Wellington Place being Lot 4, Phase 10 within Rehoboth Beach Yacht and Country Club.

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

Mrs. Isaacs presented the case. Robert Dobbs was sworn in and testified requesting a 22-foot variance from the required 40-foot front yard setback requirement for an inground pool and a 0.5-foot variance from the required 4-foot maximum height requirement for a fence around a pool; that the proposed pool will measure 15'x 30'; that the pool is necessary for his father's physical therapy; that the lot is unique in that it has two road frontages; that it will not alter the character of the neighborhood since there are other pools in the development; that an existing hedge will block the view of the pool from the road; that the proposed dwelling is handicap accessible; that the neighbors support the application; that this would be the minimum variance to afford relief; and that the pool will be approximately 12-foot from the rear of the dwelling.

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 until December 6, 2010 to allow the office to report back to the Board of other variances in the area**. Vote carried 5 – 0.

Case No. 10733 – Brian and Colleen Boyer – northwest of Road 297A, Forest Drive, being Lot 1 within Charles C. Fagan and Delaware Oyster Farms development.

A variance from the front yard setback requirement.

Mrs. Isaacs presented the case. Brian and Colleen Boyer were sworn in and testified requesting a 6.4-foot variance from the required 30-foot front yard setback

requirement for a proposed manufactured home; that the proposed 1988 unit will measure 28'x 57'; that they have already placed a down payment on this unit; that they have been unable to purchase a pre-owned unit any smaller in size to fit the lot; that the variance will enable reasonable use of the property; that it will not alter the character of the neighborhood since there are other manufactured homes in the area; and that they feel a front yard variance is less invasive than a side yard variance.

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

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

Case No. 10734 – Marie and Edwin Hallanan – southwest of Route One, north of Sea Air Avenue, being Lot A-68 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. Edwin Hallanan was sworn in and testified requesting a 5-foot variance from the required 20-foot separation requirement between units in a mobile home park, a 2-foot variance from the required 20-foot separation requirement between units in a mobile home park and a 2-foot variance from the required 20-foot separation requirement between units in a mobile home park; that the proposed addition will measure 12'x 52'; that the proposed addition is necessary to enable reasonable use of the property for his wife who has limited mobility; that the manufactured home park is over 40-years old; that the surrounding lots are non-conforming; and that this 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. McCabe, and carried unanimously that the variances be **granted since it meets the standards for granting a variance.** Vote carried 5 – 0.

Case No. 10735 – Country Rest Home, Inc. – south of Route 16, east of Road 585.

A special use exception for expansion of a convalescent home.

Mrs. Isaacs presented the case. Kevin Lee Pritchett was sworn in and testified requesting a special use exception for expansion of a convalescent home; that this project was approved by the Board last year; that they were not able to secure all agency approvals prior to the expiration of the Findings of Facts; that this expansion will conclude the final phase of the convalescent home; that they are adding 8 more dwellings; and that adjacent property is also part of the convalescent home.

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

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Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the special use exception be **granted since it will not substantially affect adversely the uses of the adjacent and neighboring properties**. Vote carried 5 – 0.

Case No. 10712 – Walter D. and Iva B. King – north of Road 454A, 1,570 feet southeast of U.S. Route 13, being Lot 1.

A variance from the minimum lot width requirement for a parcel.

Mrs. Isaacs read a letter to the Board from the Applicant stating that they no longer needed the variance and also requesting a refund of the application fee.

Mr. Moore advised the Board that the request for the refund did not require a motion and could not be considered since the hearing had been advertised and the case had been heard by the Board.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variance be **denied since it is no longer necessary**. Vote carried 5 – 0.

Case No. 10718 – Gurry L. Dove – east of Road 327 (Dogwood Acres Road), southwest of intersection of Suntan Court and Dogwood Estates Drive, being Lot 42 within Dogwood Estates development.

A variance from the side yard setback requirement.

Mrs. Isaacs presented the case. Gurry and Frances Dove were sworn and testified requesting a 5.1-foot variance from the required 15-foot side yard setback requirement for a proposed lean-to; that the Homeowner's Association and developer only require a 10-foot side yard setback requirement; that the lot is narrow on the side of the requested variance; that his septic system is on the opposite side of the existing garage; that the

lean- to is needed to provide protection for their vehicles from an existing tree; that an existing tree line will camouflage the garage from the neighbors; and that the Homeowner's Association supports the application.

The Board found that no parties appeared in support of 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.

OLD BUSINESS

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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 this case which has been tabled since November 1, 2010.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the special use exception be **granted since it will not substantially affect adversely the uses of the adjacent and neighboring property**. Vote carried 5 – 0.

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 5 – 0.

Case No. 10715 – Leroy R. Moyer – south of Road 277 (Angola Road), west of Holly Way East, being Lot 8 and ½ of Lot 7, Block L, Section 2 within Angola By The Bay development.

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

The Board discussed this case which has been tabled since November 1, 2010.

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

Motion by Mr. Workman, seconded by Mr. McCabe, and carried unanimously that the variance for the proposed garage be **granted since it will not alter the character of the neighborhood and since it is the minimum variance to afford relief**.

Vote carried 4 - 1.

Meeting Adjourned 8:30 p.m.