



BOARD OF ADJUSTMENT

AGENDAS & MINUTES

MINUTES OF NOVEMBER 16, 2009

The regular meeting of the Sussex County Board of Adjustment was held on Monday November 16, 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, Mrs. Susan Isaacs 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. Mills, seconded by Mr. Workman, and carried unanimously to approve the Minutes of the November 2, 2009 meeting. 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. 10521 – Charles L. and Joyce L. Hertzog south of Road 277, west of Holly Way West, being Lot 27, Block O, Section 11 within Angola By The Bay development.

A variance from the front yard setback requirement.

Mrs. Isaacs presented the case. Shannon Carmean, Attorney, testified on behalf of the applicant and requested a 5-foot variance from the required 10-foot side yard setback requirement for the dwelling, a 2.6-foot variance from the required 5-foot side yard setback requirement for the deck, and a 2.9-foot variance from the required 5-foot side yard setback requirement for the shed; that the applicant purchased the property in October 2009; that they were not aware of the violations until a survey was done; that the lot is narrow; and that the property cannot be developed into conformity without the variances.

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. 10522 – Paul McIlvaine- west of Route One, east of Belle Road, being Lot 31, Second Addition, within Bayview Park development.

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

Mrs. Isaacs presented the case. Paul McIlvaine was sworn in and testified requesting a 8-foot variance from the required 30-foot front yard setback requirement and a 2-foot variance from the required 10-foot rear yard setback requirement; that he has owned the property for twenty-six years (26); that he received a variance approval in 2001 for a screen porch; that he would like to raise the existing dwelling and construct a new addition on the bottom; and that the Homeowners Association has not objection.

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 variances be **granted since the addition will be in the same footprint and since it will not alter the essential character of the neighborhood**. Vote carried 5 – 0.

Case No. 10523 – Jamie Masten/Masten Realty LLC- west of Road 627, being Lots 9 within Annie D Young Subdivision.

A variance from the front yard setback requirement.

Mrs. Isaacs presented the case. James Kramer was sworn in and testified requesting a 4.6-foot variance from the required 40-foot front yard setback requirement; that the home was constructed five (5) years ago; that the certificate of occupancy was issued in 2004; that when a survey was done the violation was discovered; and that there are six (6) homes within 300-feet that sit closer to the road.

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 certificate of occupancy was issued and since it will not alter the essential character of the neighborhood**. Vote carried 5 – 0.

Case No. 10524 – Gerald W. Cliver- northeast of Route 30, 190 feet southeast of Road 554.

A special use exception to place a multi sectional manufactured home that is more than five (5) years old on less than five (5) acres.

Mrs. Isaacs presented the case. Gerald Cliver was sworn in and testified requesting a special use exception to place a multisectional manufactured home that is more than five (5) years old on less than five (5) acres; that he purchased the property in August 2009; that the manufactured home will be placed on a block foundation; that the home is being moved from Berlin, Maryland; that the manufactured home has a 12' x 24' addition attached to it; and that the manufactured home has a new roof.

The Board found that 2 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. Hudson, and carried unanimously that the special use exception be **granted since it will not alter the essential character of the neighborhood**. Vote carried 5 – 0.

Case No. 10525 – Louise Brown and Kathleen Washington- east of Route One, west of Candlelight Lane, being Lot 2C within Colonial East Mobile Home Park.

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

Mrs. Isaacs presented the case. Louise Brown and Kathleen Washington were sworn in and testified requesting a 10-foot variance from the required 20-foot separation requirement between units in a manufactured home park; that they purchased a new double wide; that they would like to place a new shed; that the shed will measure 8' x 10'; that there is no other location on the property for the shed; and that the neighbors do not object.

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

Mrs. Isaacs stated the office received 1 letter in support of the application.

Motion by Mr. Hudson, 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. 10526 – Daniel F. Burton- northwest of Road 410, being Lot A within Oliver R. Fisher Subdivision.

A special use exception to place a multi sectional manufactured home that is more than five (5) years old.

Mrs. Isaacs presented the case. Daniel Burton was sworn in and testified requesting a special use exception to place a multisectional manufactured home that is more than five (5) years old; that they would like to move to double wide from Lot 3A to

Lot 3B; that the double wide is a 2000 and measures 28' x 76'; and that they currently live in the home.

Joseph Dawson was sworn in and testified in opposition and stated that he lives to the west of the applicant; that he read a letter into the record from Mr. Shay in opposition; that he would like to know the manufactured date, actual size and square footage of the manufactured home; and that he does not want to see a manufactured home community in the area.

In Rebuttal, Mr. Burton stated he is not sure of the actual manufactured date; that he purchased the manufactured home brand new in 2000; that he is moving the home from the back of the lot to the front; that the home currently cannot be seen from the road; that there is a chicken farm located across the street; that there is a singlewide also across the street; and that he would like to possibly rent the home once he constructs his new one.

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. Mills, seconded by Mr. Hudson, and carried unanimously that the case be **tabled until the December 7, 2009 meeting for the office staff to report the manufactured date of the manufactured home.** Vote carried 5 – 0.

OLD BUSINESS

Case No. 10253 – Sea Air- west of Route One, west of Center Avenue, being Lot D-13 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 September 22, 2008.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variance be **granted since it enables reasonable use of the property, since it will not**

alter the essential character of the neighborhood, and since it was not created by the applicant. Vote carried 5 – 0.

Case No. 10286 – Timothy and Kristen Dale- west of Route One, north of Sea Air Avenue, being Lot B-57 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 November 3, 2008.

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

Case No. 10394 – Barbara Jean Fogarty- south of Route One, 170 feet northwest of Road 271, being Lot A-42 within Sea Air Mobile City Mobile Home Park.

A variance from the maximum allowable lot coverage in a mobile home park.

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

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the variance be **granted since it enables reasonable use of the property, since it will not alter the essential character of the neighborhood, and since it was not created by the applicant.** 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

The Board discussed the case, which has been tabled since May 18, 2009.

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

Case No. 10018 – John DelRossi- east of Route 22, east of Berry Street, being Lot 3 within Bay City Mobile Home Park.

A variance from the maximum allowable lot coverage in a mobile home park.

The Board discussed the case, which has been tabled since December 17, 2007.

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

Discussion

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the Agenda for the 2010 hearings be **granted**. Vote carried 5 – 0.

Meeting Adjourned at 8:20 P.M.