



BOARD OF ADJUSTMENT

AGENDAS & MINUTES

MINUTES OF NOVEMBER 17, 2008

The regular meeting of the Sussex County Board of Adjustment was held on Monday November 17, 2008, 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. Norman Rickard and Mrs. Kelly Passwaters – Recording Secretary.

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

The minutes from November 3, 2008 will be voted on at the December 1, 2008 meeting.

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. 10294 – Phil and Beryl Sachs- west of Route One, 1 mile north of Fenwick Island Town Limits, being Unit 1 within Water's Edge development.

A variance from the setback requirement from state wetlands.

Mr. Rickard presented the case. Greg Hastings was sworn in and testified on behalf of the applicant and requested a 18.6-foot variance from the required 50-foot setback requirement from state wetlands; that the existing structure encroaches into the 50-foot buffer; that the applicant purchased the home in April 2001; that they received approval from the Homeowners Association; and that they would like to add a bedroom and bathroom.

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 **tabled until the December 1, 2008 meeting for verification on the encroachment.** Vote carried 5 – 0.

Case No. 10295 – Alfred Thompson- south of Road 535, 280 feet east of U.S. Route 13.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Alfred Thompson was sworn in and testified requesting a 26-foot variance from the required 40-foot front yard setback requirement; that he would like to construct a garage; that it would measure 24' x 50'; that the parcel is narrow; that there is no other place on the property to construct the garage; and that it will be located behind a 7-foot fence.

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

Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously that the variance be **granted since it will not alter the essential character of the neighborhood and since it is a unique shaped lot.** Vote carried 5 – 0.

Case No. 10296 – Craig and Valerie Lewis- east of Route 30, 516.73 feet south of Granville Drive, being Lot 20 within Concorde Place development.

A variance from the rear yard setback requirement.

Mr. Rickard presented the case. Craig Lewis was sworn in and testified requesting a 4-foot variance from the required 10-foot rear yard setback requirement; that he would like to construct a pole building that measures 24' x 32'; that it would be for personal use; and that it would line up with the driveway.

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

Mr. Rickard stated the office received 4 letters in support of the application.

The Board found that no parties appeared 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 the minimum to afford relief.** Vote carried 5 – 0.

Case No. 10297 – Robert and Margaret Steele- north of Delaware Avenue, 290 feet east of Route One, being Lot 9, Section B.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Ray Tomasetti, Attorney, testified on behalf of the applicant and requested a 7.5-foot variance from the required 10-foot side yard setback requirement; that the applicant would like to install an elevator in her four story home; that the applicant is in need of the elevator due to her medical condition; that it will enter into the foyer area; and that the neighbor has no objection.

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. McCabe, seconded by Mr. Workman, and carried unanimously that the variance be **granted since the elevator is needed and since it will not alter the essential character of the neighborhood.** Vote carried 5 – 0.

Case No. 10298 – Mike and Barbara Znotens- Route 54, east of Keenwik Road, being Lot 4, Block G, Subdivision 3 within Keenwik on the Bay development.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Bruce Stair was sworn in and testified requesting a 5-foot variance from the required 30-foot front yard setback requirement; that the applicant would like to construct a new home; and that they received approval from the Homeowners Association.

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

Mr. Rickard stated 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. 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 other variance have been granted in the area.** Vote carried 5 – 0.

Case No. 10299 – Gladys E. Ramos- north of Delmar Road, 1,652.44 feet east of Susan Beach Road.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Gladys Ramos was sworn in and testified requesting a 10-foot variance from the required 40-foot front yard setback requirement; that she placed the shed in 1998; that the shed is located in the front yard; that she received a violation notice; that trees have grown around the shed over the years and the

shed cannot be moved; and that the shed cannot be placed in the back yard due to flooding.

The Board found that no parties appeared in favor or in opposition to 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. 10300 – James and Pamela Miller- south of Route 54, west of Cleveland Avenue, being Lot 34, Block 4 within Cape Windsor development.

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

Mr. Rickard presented the case. Bruce Stair who was sworn in at a previous hearing testified requesting a 4.9-foot variance from the required 20-foot rear yard setback requirement, a 5-foot variance from the required 10-foot side yard setback requirement and a 7.4-foot variance from the required 10-foot side yard setback requirement for a HVAC unit; that the applicant would like to place a new home; and that they have received approval from the Homeowners Association.

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, since it is the minimum variance to afford relief and since other variance have been granted in the area.** Vote carried 5 – 0.

Case No. 10301 – Keith E. Lewis, Julia Lewis and Mary Beth Triplett- northwest of Route 26, 1,155 feet southwest of U.S. Route 113.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Keith Lewis, Julia Lewis and Mary Beth Triplett were sworn in and testified requesting a 1.2-foot variance from the required 15-foot side yard setback requirement; that they purchased the property in July 2008; that when the survey was done the encroachment was discovered; and that the certificate of occupancy was issued on the garage.

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

Mr. Rickard stated the office received 1 letter in favor of 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.** Vote carried 5 – 0.

Case No. 10302 – Steven D. Lorah- north of Route 625, 2,185 feet west of U.S. Route 113.

A variance from the minimum acreage requirement to retain a manufactured home on a parcel.

Mr. Rickard presented the case. Steven Lorah was sworn in and testified requesting a variance to retain a manufactured home on less than 10 acres; that he would like to subdivide the parcel; that the manufactured home will remain on a 3/4 acre lot; that he would like to place a second manufactured home on the back of the property; and that currently the existing manufactured home is being rented.

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 **tabled and that the applicant re-apply for other setback violations.** Vote carried 5 – 0.

Case No. 10303 – Yasuhiro and Emi Sano- northeast of Route One, northeast of Isaacs Drive, being Lot 30 within Midway Park Subdivision.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Ted Spengos was sworn in and testified requesting a 16-foot variance from the required 30-foot front yard setback requirement; that the applicant would like to place a new home; and that the variance would allow for the new home to be in line with the others on the street.

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

Case No. 10304 – Jan C. Johnson – south of Route 26, north of Ogre Drive, being Lot 6, Block C within Ocean Way Estates development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Jan Johnson was sworn in along with David Hutt, Attorney, and testified requesting a 0.4-foot variance from the required 10-foot side yard setback requirement; that the applicant inherited the property from her father; that the violation was discovered when a survey was done; and that it would cause a hardship to move 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. Mills, 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.

The Board took a 10-minute recess.

OLD BUSINESS

Case No. 10274 – Raymond S. Smethurst, Jr. - south of Old Country Road and Ann Avenue.

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

Mr. Rickard presented the case.

The Board discussed the case, which has been tabled since October 20, 2008.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variance be **granted since the lot is unique in shape, 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. Mr. McCabe abstained from voting.

Case No. 10276 – Christopher M. Holmon- south of Route 54, north of Bayberry Lane, being Lot 16, Block H, Subdivision 3 within Keen-Wik development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case.

The Board discussed the case, which has been tabled since October 20, 2008.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variance be **granted since it will not alter the essential character of the neighborhood, since it is the minimum variance to afford relief and since it is a small lot.** Vote carried 4 – 0. Mr. McCabe abstained from voting.

Case No. 10285 – John and Helen Ward- west of Route One, east of Davis Street, being Lots 15 and 16 within Bay View Park development.

A variance from the front yard setback requirement.

Mr. Rickard presented the case.

The Board discussed the case, which has been tabled since November 3, 2008.

Motion by Mr. Mills, 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 enables reasonable use of the property.** Vote carried 4 – 0. Mr. McCabe abstained from voting.

Case No. 10286 – Timothy and Kristen Dale- west of Route One, north of Sea Air Avenue, being Lot B057 within Sea Air Mobile City Mobile Home Park.

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

Mr. Rickard presented the case.

The Board discussed the case, which has been tabled since November 3, 2008.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the case be **tabled until all violations are corrected in the park.** Vote carried 4 – 0. Mr. McCabe abstained from voting.

Case No. 10290 – Franklin S. Bennett- south of Route 26, 1,259 feet east of Route 17, being Lot 2.

A variance from the setback requirements, maximum height requirement, and maximum square footage requirement for a billboard.

Mr. Rickard presented the case.

The Board discussed the case, which has been tabled since November 3, 2008.

Motion by Mr. Hudson, seconded by Mr. Mills, and carried unanimously that the variances be **granted since it requires less of a variance than previously approved.** Vote carried 4 – 0. Mr. McCabe abstained from voting.

Case No. 10292 – K. William Scott, Esq. - northeast corner of Route 54 (Lighthouse Road) and Bunting Avenue (Ocean Front) and 400 feet east of Route One, being Lot 1, Section A within Fenwick Island Development.

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

Mr. Rickard presented the case.

The Board discussed the case, which has been tabled since November 3, 2008.

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 4 – 0. Mr. McCabe abstained from voting.

Meeting adjourned at 8:50 P.M.