



BOARD OF ADJUSTMENT

AGENDAS & MINUTES

MINUTES OF NOVEMBER 2, 2009

The regular meeting of the Sussex County Board of Adjustment was held on Monday November 2, 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. Hudson, seconded by Mr. McCabe, and carried unanimously to approve the Revised Agenda as circulated and to move Case No. 10518 to the first item on the agenda due to medical reasons. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously to approve the Minutes of the October 19, 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. 10518 – Deborah Kopec- south of Road 274, south of Bay Drive, being Lot 49 within Rehoboth Bay Mobile Home Park.

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

Mrs. Isaacs presented the case. Deborah Kopec was sworn in and testified requesting a 7.7-foot variance from the required 20-foot separation requirement between units in a mobile home park; that the variance is needed for a 6' x 10' screen porch; that she received a variance approval in July 2009 for another screen porch; that the neighbors deck is located right on the property line; and that it has been there approximately thirty (30) years which makes it hard for her to meet the separation requirements.

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 will not alter the essential character of the neighborhood.** Vote carried 5 – 0.

Case No. 10510 – Harvey Justice- northwest corner of Road 348 and Road 346.

A determination of existence of use.

Mrs. Isaacs presented the case. Harvey Justice was sworn in along with Tim Willard, Attorney, and testified requesting a determination of existence; that the property has been used for storage of construction equipment for over 30 years; that it consists of two lots constituting over an acre; that since the late 1960's the property has been continuously used as a base for his business; and that letters were read into the record in reference to the existence.

James Freeman was sworn in and testified in opposition to the application and stated he is the President of the Bay Colony property owners; that the applicant has moved equipment from the Borrow Pit site to his residence site; that the property in question has not been used for storage for the past ten (10) years; and that he submitted photos.

The Board found that 15 parties appeared in support of the application.

The Board found that 14 parties appeared in opposition to the application.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the case be **granted since the pictures submitted show the existence and since the site has and continued to be used as storage.** Vote carried 5 – 0.

Case No. 10511 – Bay Forest L.L.C.- east of Old Mill Road, being Lots 1 through 32 within Byewood Manor development.

A variance from the front yard setback requirement.

Mrs. Isaacs presented the case. Richard Boyle was sworn in along with Jim Fuqua, Attorney, and testified requesting a 20-foot variance from the required 30-foot front yard setback requirement; that the Byewood Manor subdivision has been incorporated into the Bay Forest RPC; that they are requesting the same setbacks as the lots in the Bay Forest RPC; that Bay Forest has 10-foot setbacks; and that Byewood Manor has no improvements on the land.

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 essential character of the neighborhood.** Vote carried 5 – 0.

Case No. 10512 – Vincent Kaye- northwest of Road 525, 2,640 feet south of Route 18.

A special use exception to operate a concrete batching plant.

Mrs. Isaacs presented the case. Vincent and Edward Kaye were sworn in and testified requesting a special use exception to operate a concrete batching plant; that the property is surrounded by Sussex Sand & Gravel; that they would like to move the batch plant that is currently located in the City of Seaford; that it would reduce trucking costs; and that it would be open five (5) days a week.

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 special use exception be **granted for a period of five (5) years since it will not substantially affect adversely the uses of adjacent and neighboring properties.** Vote carried 5 – 0.

Case No. 10513 – Ronald and Sharon Fantini- south of Route 54, west of Swann Drive, being Lot 43, Block A within Swann Keys development.

A variance from the side yard setback requirement.

Mrs. Isaacs presented the case. Bruce Stair was sworn in and testified on behalf of the applicant requesting a 5.25-foot variance from the required 10-foot side yard setback requirement; that the lot is narrow; that the lot measures 40' x 100'; that the lots were originally created for singlewides; and that the applicant would like to replace the existing home with a new one.

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 is a narrow lot, since it will not alter the essential character of the neighborhood, and since it is the minimum variance to afford relief.** Vote carried 5 – 0.

Case No. 10514 – Thomas and Mary Nocella- south of Route 54, west of Canvasback Road, being Lot 22, Block D within Swann Keys development.

A variance from the side yard setback requirement.

Mrs. Isaacs presented the case. Bruce Stair, who was sworn in at the previous hearing testified requesting a 5.25-foot variance from the required 10-foot side yard setback requirement; that the lot is narrow; that the lot measures 40' x 103'; that the lots were originally created for singlewides; and that the applicant would like to replace the existing home with a new one.

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 is a narrow lot, since it will not alter the essential character of the neighborhood, and since it is the minimum variance to afford relief.** Vote carried 5 – 0.

Case No. 10515 – Jeffrey Broad- west of Route One, south of Dodd Avenue, being Lot H25 within Sea Air Mobile City Mobile Home Park/Camp.

A variance from the maximum height requirement for a deck in a campground.

Mrs. Isaacs presented the case. Jeffrey Broad and Mike McGee were sworn in and testified requesting a 20" variance from the required 6" requirement for a deck in a RV section; that the applicant purchased a park model that is located on an RV site; that he would like to place a 8' x 20' deck on the RV; and that it will measure 26" in height.

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. McCabe, seconded by Mr. Workman, 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. 10516- Sea Air Village Mobile Home Park- west of Route One, southwest of Delaware Avenue, being Lot J75 within Sea Air Mobile City Mobile Home Park.

A variance from the separation requirement between units in a mobile home park and a variance from the maximum allowable lot coverage in a mobile home park.

Mrs. Isaacs presented the case. Cindy Surface and Cathy Kreackr were sworn in along with David Hutt, Attorney, and testified requesting a 1.9-foot variance from the

required 20-foot separation requirement from Lot J77, a 1.4-foot variance from the required 20-foot separation requirement from Lot J77, a 10.7-foot variance from the required 20-foot separation requirement from Lot A90, a 9.3-foot variance from the required 20-foot separation requirement from Lot J73, a 5.5-foot variance from the required 20-foot separation requirement from Lot A90 and a 120.05-square foot variance from the required 35% lot coverage requirement; that the lot is small; that the applicant has lived in the park for twenty-five (25) years; that the manufactured home currently located on the lot is a 1969; that it measures 12' x 56'; that she would like to replace the home to make it her permanent residence; that the manufactured will be replaced with the same type home that is located on Lot A8; and that she would also like to replace the existing shed.

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

Case No. 10517 – Valerie A. Wolslayer and Ari D. Abel- west of Route One, north of Bay Road, being Lot 6 within Rehoboth Manor development.

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

Mrs. Isaacs presented the case. Randy Burton was sworn in and testified on behalf of the applicant requesting a 3.7-foot variance from the required 10-foot side yard setback requirement and a 1.7-foot variance from the required 30-foot front yard setback requirement; that the home was constructed prior to zoning; that they would like to construct a 27' x 28' addition on the house; and that they would be remodeling that home inside.

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 will not alter the essential character of the neighborhood**. Vote carried 5 – 0.

Case No. 10519- H. Donovan and Dolores R. Price- west of Road 277, south of Angola Road East, being Lot 21, Block N. Section 2 of Angola By The Bay development.

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

Mrs. Isaacs presented the case. Pamela Carlon Davis was sworn in along with Shannon Carmean, Attorney, and testified requesting a 1.4-foot variance from the required 30-foot front yard setback requirement, a 3.5-foot variance from the required 10-foot side yard setback requirement for deck steps and a 1.4-foot variance from the required 10-foot side yard setback requirement for an outside shower; that the property is unique in shape; that the applicant purchased the property in September 2009; that the violations were discovered when a survey was done; and that the Homeowners Association does not object to the variance requests as long as the shed is brought into compliance.

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

Case No. 10520 – Gregory C. White- north of road 373, 3,175 feet west of Road 365, being Parcel A.

A special use exception for a farm pond on less than five (5) acres.

Mrs. Isaacs presented the case. Gregory White was sworn in and testified requesting a special use exception for a farm pond on less than five; that he purchased the property in 2009 as a foreclosure with the home and the pond on the property; that he was not aware of the violation until he applied for the certificate of occupancy; and that he was issued a temporary certificate of occupancy.

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 special use exception be **granted since it will not substantially affect adversely the uses of adjacent and neighboring properties**. Vote carried 5 – 0.

The Board took a 10-minute Recess

OLD BUSINESS

Case No. 10466 – Bonita Sponsler and Harry Lartz- west of Road 327, being Lot 4 within Rolling Acres development.

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

The Board discussed the case, which has been tabled since August 17, 2009.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variance be **denied since the encroachment was created by the applicant, since it is not unique, and since it does not meet the standards for granting a variance.** Vote carried 5 – 0.

Case No. 10491 – AT & T- east of Route One, 100 feet north of Jefferson Bridge Road.

A special use exception for telecommunication tower.

The Board discussed the case, which has been tabled since September 21, 2009.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the special use exception be **granted since the property is zoned C1, since it will not alter the essential character of the neighborhood, since it meets the technical requirements by the County, and since a property value appraisal was submitted.** Vote carried 3 – 2.

Case No. 10498 – Gregory L. Smith and Margaret C. Earman- south of Route 54, west of Oak Road, being Lot 12, Block B within Keen-Wik Subdivision 2 development.

A variance from the side yard setback requirement.

The Board discussed the case, which has been tabled since October 5, 2009.

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.** Vote carried 3 – 2.

Case No. 10499 – Telamon Corporation- east of Road 275, 650 feet south of Road 276, being Lot 3.

A special use exception for a day care center.

The Board discussed the case, which has been tabled since October 5, 2009.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the special use exception be **denied since the applicant submitted a letter stating they were going to find another location.** Vote carried 5 – 0.

Case No. 10501 – Robert and Theresa Parker- east of Route 16, southeast of North Carolina Avenue, being Lot 21, Block E within Broadkilm Beach.

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

The Board discussed the case, which has been tabled since October 19, 2009.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variances be **granted for a 4-foot variance for the rear deck extension, side door landing, and two (2) ground level steps**. Vote carried 4 – 0. Mr. Hudson abstained from voting.

Case No. 10504 – Janet L. Wilson- southeast of Road 66, 1.75 mile southwest of Road 455.

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

The Board discussed the case, which has been tabled since October 19, 2009.

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 the minimum variance to afford relief, and since it is unique**. Vote carried 4 – 0. Mr. Hudson abstained from voting.

Case No. 10508 – Albert J. and Patricia Riedinger- north of Maryland Avenue, being Lot 7, Section C.

A variance from the front yard setback requirement.

The Board discussed the case, which has been tabled since October 19, 2009.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously the variance be **denied as the application is not substantially different from the application that was filed in 2006**. Vote carried 4 – 0.

Meeting Adjourned at 10:00 P.M.

