



# BOARD OF ADJUSTMENT

## AGENDAS & MINUTES

### MINUTES OF NOVEMBER 3, 2008

The regular meeting of the Sussex County Board of Adjustment was held on Monday November 3, 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. John Mills, Mr. Brent Workman and Mr. Jeff Hudson, with Mr. Richard Berl – Assistant County Attorney and staff members, Mrs. Jennifer Norwood and Mrs. Kelly Passwaters – Recording Secretary.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Revised Agenda as circulated. Vote carried 4 – 0.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously to approve the Minutes of October 20, 2008 meeting as corrected with the correction to make a change to the opposition's comments on Case No. 10274. Mr. Mills stated Mrs. Patchell stated her client would like to see the parcel remain undeveloped. Vote carried 4 – 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. 10284 – Jerry Schaeffer-** north of Road 58B, east of Alcove Court, being Lot 215 within Bayview Landing Development.

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

Mrs. Norwood presented the case. Jerry Schaeffer was sworn in and testified requesting a 1.2-foot variance from the required 30-foot front yard setback requirement for a through lot; that he would like to request a 6-foot variance; that the deck has already been constructed; that it measures 31" in height; that he obtained a building permit; and that he was not aware it was a through lot.

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 for 6-feet 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 unique shaped lot.** Vote carried 4 – 0.

**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.

Mrs. Norwood presented the case. John Ward was sworn in along with David Hutt, Attorney, and testified requesting a 12.2-foot variance from the required 30-foot front yard setback requirement; that Mr. Ward purchased the property on September 15, 2008; that the existing deck was built in 1994; that he would like to construct a 12-foot deck/screen porch; that the average setback on Davis Street for homes is 14.47-feet; and that the variance will allow for reasonable use.

Dick Fox was sworn in and testified in opposition to the application and stated he is representing Bay View Park Board of Directors; that he believes setbacks by the county are for a reason; that the lots are small; and that the Board of Directors support variance applications for medical reasons or grandfather situations only.

The Board found that 1 party 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. Workman, and carried unanimously that the case be taken under advisement. Vote carried 4 – 0.

Motion by Mr. Hudson, seconded by Mr. Mills, and carried unanimously that the case be **tabled until the November 17, 2008 meeting for the office staff to figure an average front yard setback.** Vote carried 4 – 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.

Mrs. Norwood presented the case. Timothy Dale was sworn in and testified requesting a 9.6-foot variance from the required 20-foot separation requirement between units, a 4.2-foot variance from the required 20-foot separation requirement between units and a 3.8-foot variance from the required 20-foot separation requirement from a shed;

that he purchased the manufactured home in August 2008; that it measures 12' x 52'; that he would like to add a 14' x 52' addition; that it will have a bedroom and bathroom; that he will be replacing the windows and siding; and that the proposed deck will be used for entrance purposes.

Jeanne Sisk was sworn in and testified in opposition and stated that she is the president of the Homeowners Association; that the lots do not accommodate additions; that the Board of Adjustment denied an addition on lot G16; and that there is privacy issues.

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

The Board found that 6 parties appeared in opposition to the application.

Motion by Mr. Workman, seconded by Mr. Hudson, and carried unanimously that the case be taken under advisement. Vote carried 4 – 0.

At the conclusion of the public hearings, the Chairman referred back to this case. Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be **tabled until the November 17, 2008 meeting.** Vote carried 4 – 0.

**Case No. 10287 – Kelly S. and Rachel L. Carey-** east of Road 530, north of Greenleaf Lane, being Lot 53, Section 1 within Rivers End development.

A variance from the rear yard setback requirement.

Mrs. Norwood presented the case. Kelly Carey was sworn in along with John Tarburton, Attorney, and testified requesting a 0.5-foot variance from the required 5-foot rear yard setback requirement for a shed; that the applicant purchased the property on May 23, 2007; that the shed is a permanent structure set on a concrete pad; that the shed measures 187.46-square feet; and that it would cause a hardship to move the shed.

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 with the stipulation that a building permit be obtained since it was not created by the applicant, 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.

**Case No. 10288 Nilton and Joyce McIntyre-** south of Route 54, west of Tranquility Lane, being Lot 79 within Hidden Acres development.

A variance from the front yard setback requirement.

Mrs. Norwood presented the case. Joyce McIntyre was sworn in and testified requesting a 8-foot variance from the required 30-foot front yard setback requirement; that she obtained a building permit for the carport; that it is closed in on two (2) sides; and that it measures 12' x 21'.

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. Hudson, and carried unanimously that the variance be **granted since it will not alter the essential character of the neighborhood and that a letter be sent to that company that placed the carport.** Vote carried 4 – 0.

**Case No. 10289 – Keywest Investments LLC-** south of Route One, 750 Feet northwest of Road 88.

A variance from the maximum height requirement for a billboard.

Mrs. Norwood presented the case. Darlene Mathis was sworn in and testified requesting a 15-foot variance from the 25-foot height requirement for a sign; that the original variance request was denied; that the billboard needs to be raised due to a tree line buffer; that the billboard cannot be rented since it is not being visible; that the billboard exceeds the 100mph wind load; that the owners are offering to turn the lights off at 12:00 P.M each night; and that the billboard cannot be moved due to a neighboring billboard.

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 with the stipulation that there be no lighting after 10:00 P.M.** Vote carried 4 – 0.

**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.

Mrs. Norwood presented the case. Franklin Bennett was sworn in and testified requesting a 102.6-foot variance from an existing dwelling for a proposed billboard; a

60.5-foot variance from the required 300-foot setback requirement for a billboard; a 111-foot variance from the required 300-foot setback requirement for a billboard and a 600-square foot variance from the required 300-square foot requirement per side for a billboard; that he received approval on August 18, 2008; that Del-Dot denied his request due to his billboard being to close to an existing billboard; that the billboard will be double sided and double stacked; and that the lot is currently vacant.

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 case be taken under advisement. Vote carried 4 – 0.

At the conclusion of the public hearings, the Chairman referred back to this case. Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be **tabled until the November 17, 2008 meeting for the office to clarify that variances needed.** Vote carried 4 – 0.

**Case No. 10291 – Raymond E. Tomasetti, Jr.-** south of Garfield Avenue, 118 feet west to Jefferson Avenue, being Lot 12, Block 2 within Edgewater Acres development.

A variance from the side yard setback requirements.

Mrs. Norwood presented the case. James Sunderhauf was sworn in along with Raymond Tomasetti, Attorney, and testified requesting a 3.4-foot variance from the side yard setback requirement; that the dwelling was constructed in 1982; that a shed has been on the property since 1990; that the neighbors are in support of the application; and that a building permit has been obtained for the shed.

Tony Milan was sworn in and testified in support of the application and stated that he is President of the Homeowners Association; that the neighbors do not object to the variance application; and that he is not sure how long the shed has been on the property.

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

Mr. Rickard stated the office received 9 letters 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 variance be **granted since it was not created by the applicant, 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.

**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.

Mrs. Norwood presented the case. Cynthia and Dennis Mather were sworn in along with K. William Scott, Attorney, and testified requesting a 25.57-foot variance from the required 30-foot front yard setback requirement, a 9.62-foot variance from the required 15-foot corner setback requirement and a 5.66-foot variance from the required

10-foot side yard setback requirement; that they have owned property in Fenwick Island for 25 years; that the Sea Charm motel is non-conforming; that they would like to convert the motel into a single family dwelling; that they would like to increase the height of the building; that they would like to extend the deck 9-feet on the ocean side from the existing structure; and that they will keep the existing wall on the first floor.

Tanios Tannouse was sworn in and testified in opposition to the application and stated that he owns property to the north of the applicant; that the building should be brought up to Code; and that the existing building is an eye sore and should be torn down.

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

The Board found that 3 parties appeared in opposition to the application.

Motion by Mr. Hudson, seconded by Mr. Workman, and carried unanimously that the case should be **tabled until the November 17, 2008 meeting to review the case info.** Vote carried 4 – 0.

**Case No. 10293 – James C. Clark**- northwest of Road 363 and being northwest of Georgia Avenue, 300 feet southwest of Tennessee Drive, being Lot 29 within Plantation Park development.

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

Mrs. Norwood presented the case. James Clark was sworn in and testified requesting a 20-foot variance from the required 30-foot front yard setback requirement and a 1-foot variance from the required 5-foot rear yard setback requirement; that Delmarva Pole Buildings constructed a pole building; and that he thought the property line was from the edge of the road.

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 and that a letter be sent to the builder.** Vote carried 4 – 0.

### **OTHER 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.

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

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the case be **tabled until the November 17, 2008 meeting for the staff to see if any persons in opposition received variances.** Vote carried 4 – 0.

**Meeting Adjourned at 9:30 P.M.**

Minutes  
November 3, 2008  
Page 8