



# BOARD OF ADJUSTMENT

## AGENDAS & MINUTES

### MINUTES OF OCTOBER 6, 2008

The regular meeting of the Sussex County Board of Adjustment was held on Monday October 6, 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. 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 September 22, 2008 meeting as circulated. 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. 10259 – Cedar Creek Landing Campground-** north of Route One, south corner of Argo Corner Road, being Lot 8 within John D. Faren's development.

A special use exception for an off-premise sign.

Mr. Rickard presented the case. Maurice Faulkner was sworn in and testified requesting a special use exception for an off-premise sign; that he just opened a new campground in May 2008; that the sign measures 8' x 8'; and that the sign would help people find the campground.

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.

**Case No. 10260 – Cedar Creek Landing** – southwest of Route One, 3,700 feet southeast of Road 207.

A special use exception for an off-premise sign.

Mr. Rickard presented the case. Maurice Faulkner was sworn in at the previous hearing testified requesting a special use exception for an off-premise sign; that the sign is currently a temporary sign on a trailer; that it is located north of the property; that he received approval from the property owner; and that the sign measures 8' x 16'.

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

**Case No. 10261 – First State Signs, Inc.** - east of U.S. Route 13, 1.050 feet south of Road 482.

A special use exception to replace a billboard and a variance from the maximum square footage requirement for a sign.

Mr. Rickard presented the case. Dale McCalister was sworn in and testified requesting a special use exception to replace a billboard and a 552-square foot variance from the required 300-square foot requirement per side for a two sided billboard; that the existing 10' x 30' billboard is in poor shape; that he would like to replace it with a 12' x 48' steel monopole two sided billboard; that larger billboards allow for more rent; that it will meet setback requirements; and that it is the best use for the property.

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 special use exception and variance be **granted since it will not alter the essential character of the neighborhood, since it will not substantially affect adversely the uses of adjacent and neighboring properties and since it is the minimum variance to afford relief.** Vote carried 5 – 0.

**Case No. 10262 – Christina Bell-** intersection of Bay Shore Drive and Jefferson Avenue, being Lot 8, Block 3.

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

Mr. Rickard presented the case. Wayne Arnett was sworn in and testified on behalf of the applicant requesting a 15-foot variance from the required 15-foot corner side yard setback requirement and a 9-foot variance from the required 30-foot front yard setback requirement; that the deck has already been constructed; that it measures 8' x 10'; that the applicant hired a contractor; that no contract was signed for the job; that the contractor did not obtain a permit; that the applicant hired another contractor to finish the job; and that it would cause a financial hardship to remove the deck.

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 variance be **granted since it meets the standards for granting a variance and that a letter be sent to both contractors.** Vote carried 5 – 0.

**Case No. 10263 – Seaford Machine Works, Inc.-** northeast of Middleford Road, west of Victoria Avenue, being Lots 65, 66 and 67, Block J within The Island Development.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Phillip LaPred was sworn in and testified requesting a 55-foot variance from the required 60-foot front yard setback requirement (the rear of a through lot); that the building he is currently renting is being sold; that the equipment in that building weighs several tons; that he would like to place a new pole building; that the new pole building will measure 4,900-square feet; that the building will be placed to the rear of the existing building; and that he has already combined the three (3) lots and is waiting for the deed.

The Board found that 1 party 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. Mills, 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. 10264 – Joseph Maggio-** northeast intersection of Route 16 and Route 30.

A special use exception for an additional ground sign and wall signs.

Mr. Rickard presented the case. Joseph Maggio was sworn in and testified requesting a special use exception for an additional ground sign and wall signs; that the two (2) signs are already in place; that he did not realize the Eagle logo needed a permit; that he was not aware the signs were in violation when he purchased the property; and that the Major Locksmith sign will be removed.

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

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the case be **tabled until the October 20, 2008 meeting.** Vote carried 5- 0.

**Case No. 10265 – Brett Reilly** – south of Route 54, west of Bayberry Road, being Lots 57 and 58 and north ½ of Lot 56, Block H within Keenwick development.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Brett Reilly was sworn in and testified on behalf of the applicant and requested a 3.2-foot variance from the 30-foot front yard setback requirement; that the applicant would like to place a new home; that the variance is needed for the steps on the front of the home; and that they 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 variance be **granted since it will not alter the essential character of the neighborhood and since other variances have been granted in the area.** Vote carried 5 – 0.

Case No. 10266 – Gemcraft Homes- north of Route 88, north of Fieldstone Drive, being Lot 32 within Windstone development.

A special use exception to place a manufactured home type structure as a sales office and a variance from the front yard and side yard setback requirements.

Mr. Rickard presented the case. Ron Wilkins was sworn in and testified requesting a special use exception for a temporary sales trailer, a 10-foot variance from the required 30-foot front yard setback requirement and a 5-foot variance from the required 10-foot side yard setback requirement on both sides; that the sales trailer will be

used for 6 months to 1 year; that it will measure 12' x 60'; that they would like to place it as close to the road as possible; and that it is an undersized 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 special use exception and variances be **granted for a period of 1 year since it will not substantially affect adversely the uses of adjacent and neighboring properties and since it will not alter the essential character of the neighborhood.** Vote carried 5 – 0.

Case No. 10267 – Flexera, Inc.- west of U.S. Route 13, 250 feet north of Road 583.

A special use exception to place a windmill.

Mr. Rickard presented the case. Robert Light was sworn in and testified requesting a special use exception to place a windmill; that the windmill will be placed on the building; that it will meet the 42-foot height requirement; that it will produce approximately 130 – 200 kwh per month; and that the windmill will be used as a monitoring source.

The Board found that 1 party 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. Workman, 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.

Case No. 10268 – Brenda and Lee Mumford- south of Route 54, west of Hidden Acres Drive, being Lot 51 within Hidden Acres development.

A variance from the side yard setback requirements.

Mr. Rickard presented the case. Brenda and Lee Mumford were sworn in and testified requesting a 2-foot variance from the required 10-foot side yard setback requirement; that that variance was previously approved on November 27, 2006; and that they were not aware it would expire after one year.

The Board found that 1 party 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. McCabe, and carried unanimously that the variance be **granted since it enables reasonable use of the property and since it will not alter the essential character of the neighborhood.** Vote carried 5 – 0.

**Case No. 10269 – Abraham Lincoln Jones-** east of Route One, south of Norwood Street, being Lots 64 and 80 within West Rehoboth development.

A special use exception to place a manufactured home on a financial hardship basis and a variance from the minimum square footage requirement for a parcel.

Mr. Rickard presented the case. Alonzo Harris and Ann Harris were sworn in and testified requesting a special use exception to place a manufactured home on a financial hardship basis and a 1,875-square foot variance from the required 10,000-square foot requirement; that the manufactured home has been on the property for approximately 15 years; that they received a violation notice; that the existing home is over the property line; that they would like to add 625-square feet to Lot 64; that the doctor stated their mother did not meet the standards for applying for a medical hardship; and that their mother is unable to work.

The Board found that 1 party 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 case be **tabled until the October 20, 2008 meeting for the staff to do some research on the property.** Vote carried 5 – 0.

**Case No. 10270 – Irvin A. Moore-** south of Road 350, west of Wilmington Avenue, being Lot 51, Section E within Banks Acres development.

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

Mr. Rickard presented the case. Irvin Moore was sworn in and testified requesting a 3.4-foot variance from the required 5-foot rear yard setback requirement and a 5-foot

variance from the required 5-foot side yard setback requirement; that the shed is already on the property; that the shed was already placed on an existing concrete pad; and that the shed cannot be placed at another location on the property.

Mr. Richard stated the office received 2 letters in favor of the application.

The Board found that no 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. Hudson, and carried unanimously that the variances 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.

**Case No. 10271 – Brian and Patricia Shannon-** south of Route 18, 1.035 feet west of Road 46.

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

Mr. Rickard presented the case. Patrick Vanderslice, Attorney, testified on behalf of the applicant and requested a special use exception for a pond on less than five (5) acres; that the applicant purchased the property in 2005; that the property is vacant; that the pond will be located to the rear of the property; that the pond will measure 1,100-square feet; and that the pond will provide for wildlife habitat, for aesthetics as well as for badly needed fill to bring portions of the land up to grade.

Mr. Richard stated the office received 1 letter in favor of the application.

The Board found that no parties appeared in favor 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 substantially affect adversely the uses of adjacent and neighboring properties**. Vote carried 5 – 0.

**Case No. 10272 – Resort Homes, Inc.-** north of Route 54, west of Canvasback Road, being Lot 74, Block D within Swann Keys development.

A variance from the side yard setback requirements.

Mr. Rickard presented the case. Betty Lou Day was sworn in and testified requesting a 5-foot variance from the required 10-foot side yard setback requirement, a 4-foot variance from the required 10-foot side yard setback requirement for a HVAC unit, a

3-foot variance from the required 10-foot side yard setback requirement and a 4.4-foot variance from the required 10-foot side yard setback requirement; that she would like to place a new home; that she received approval from the Homeowners Association; and that she will park in front of the house.

The Board found that 1 party 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 variances be **granted since it is a small lot, since it will not alter the essential character of the neighborhood and since several variances have been granted in the area.** Vote carried 5 – 0.

**Meeting Adjourned at 8:40 P.M.**

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