



BOARD OF ADJUSTMENT

AGENDAS & MINUTES

MINUTES OF September 22, 2008

The regular meeting of the Sussex County Board of Adjustment was held on Monday September 22, 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.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of September 8, 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. 10244 – William Draine- north of Road 297, 1,490 feet east of Road 305.

A special use exception to operate a driving range.

Mr. Rickard presented the case. William Draine was sworn in and testified requesting a special use exception to operate a driving range; that he is an enthusiastic golfer; that he received a violation notice; that he obtained 5-acres of his grandfather's land and started a small golf practice area; that in 1997 he inherited the balance of his grandfather's property; that in 1988 he expanded the golf practice area; that he obtained a business license in 2005; that he placed a sign on his property in 2005 indicating private lessons available; that the golf practice area is not open at night; that he has no desire to open a public driving range or teaching center; that the neighbors have the privilege of using the golf practice area; that the golf area is well maintained; that the travel trailer on the property is only used for storage purposes only; that the travel trailer will be removed

after the harvest of soy beans; and that the golf practice area is only open by appointment only.

Ronald Sams was sworn in and testified in support of the application and stated that he has known the applicant for several years; and that he only uses the golf facility to practice and to learn about golf.

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

Mr. Rickard stated the office received 3 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. Hudson, and carried unanimously that the special use exception be **granted for a period of 5 years since it will not substantially affect adversely the uses of adjacent and neighboring properties**. Vote carried 5 – 0.

Case No. 10245 – Carol A. Callaway- west of Brickyard Road (Road 481), 1 mile east of U.S. Route 13.

A special use exception to retain a manufactured home on a medical hardship basis.

Mr. Rickard presented the case. Michael McGroerty, Attorney, testified on behalf of the applicant and requested a special use exception to retain a manufactured home on a medical hardship basis; that the case was previously approved in 1992 for her mother; that she is capable of working; that her daughter will be taking care of her; that the manufactured home measures 14' x 70'; and that she received a violation notice issued by the Constables office.

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 2 years since it will not substantially affect adversely the uses of adjacent and neighboring properties**. Vote carried 5 – 0.

Case No. 10246 – Jacqueline Snowden- west of Road 213, 2.750 feet south of Road 224.

A variance from the side yard setback requirements.

Mr. Rickard presented the case. Jacqueline Snowden was sworn in and testified requesting a 0.6-foot variance from the required 10-foot side yard setback on both sides

for a proposed home; that she inherited the property from her grandmother; that she would like to place a new doublewide; that the doublewide measures 24' x 60'; 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. 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. 10247 – Julie K. Harris- north of Featherbed Road, being Lot 8.

A special use exception to retain a manufactured home for storage and a special use exception for an apartment over an accessory structure.

Mr. Rickard presented the case. Julie Harris was sworn in and testified requesting a special use exception to retain a manufactured home for storage and a special use exception for an apartment over an accessory structure; that the manufactured home was already on the property when she purchased it many years ago; that she would like to use it for storage of HVAC equipment and vehicles; that she would like to eventually place a pole building; and that she would like to have an apartment in the pole building for rental purposes.

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 case be **tabled for clarification from the office staff on the Amendment change to Chapter 115 that defines a Garage/Studio Apartment**. Vote carried 5 – 0.

Case No. 10248 – Estate of Don Louis Leeser- west of U.S. Route 13A, south of Garden Lane, being Lot 83 within Green Acres development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Shannon Carmean, Attorney, testified on behalf of the applicant and requested a 0.7-foot variance from the side yard setback requirement; that the applicant acquired the property in 1990; that the property was sold in 2008; that the violation was discovered when a survey was done; and that the property is unique in shape.

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

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variance be **granted since it meets the standards for granting a variance.** Vote carried 5 – 0.

Case No. 10249 – Sandra Mills- northeast of Road 541, 1,800 feet northwest of Road 536.

A special use exception to place a manufactured home on a medical hardship basis.

Mr. Rickard presented the case. Sandra Mills and Jason Brittingham were sworn in and testified requesting a special use exception to place a manufactured home on a medical hardship basis; that that manufactured home measures 14' x 70'; and that the unit will be placed behind the existing home.

Edward Hicks was sworn in and testified in opposition to the application and stated the he owns the neighboring property and that he is concerned that the manufactured home will not meet setback requirements.

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 special use exception be **granted for a period of 2 years since it will not substantially affect adversely the uses of adjacent and neighboring properties.** Vote carried 5 – 0.

Case No. 10250 – Alan Strigga and Bruce Clayton- west of Route 24, north of Tanglewood Court, being Lot 39 within Briarwood Estates development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Alan Strigga was sworn in and testified requesting a 0.7-foot variance from the required 15-foot side yard setback requirement for a attached garage; that the violation was discovered when the property was sold; that the certificate of occupancy was issued in 1995; and that when the property was sold in 2002 the violation was not discovered.

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, 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. 10251 – Sea Air- west of Route One, north of Atlantic Avenue, being Lot F-05 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. Cindy Surface was sworn in along with David Hutt, Attorney, and testified requesting a 0.7-foot variance from the required 20-foot separation requirement between units, a 4.3-foot variance from the required 20-foot separation requirement between units and a 9-foot variance from the 20-foot separation requirement between units; that Mrs. Surface has been the manager for Sea Air for 2 years; that the average lot size is around 3,600-square feet; that when a customer would like to place a new manufactured home she takes into consideration the size of the site; that most home owners would like to have porches and decks; that she would like to see customers purchase manufactured homes with factory porches; that there are multiple violations in Sea Air; that the property has been surveyed by Coast Survey in order to try to fit the appropriate manufactured home on the property; that a updated survey was submitted; that Lot F-05 contains 3,780-square feet; that the sites surrounding Lot F-05 do not conform; that the floor plan of the proposed manufactured home includes a factory porch; and that the improvements meet the 35% lot coverage requirement.

Jeanne Sisk was sworn in and testified in opposition to the application and stated that everything in Sea Air is not in violation; that she is president of the Homeowners Association; that she represents over half of the residents in Sea Air; that people are frequently being evicted from Sea Air; that the manufactured homes being brought in are too close to the street; that a 14-foot wide manufactured home was placed recently on Lot K-68; that the lots are small in Sea Air; that there are manufactured homes that will fit on the small lots; and that she would rather see existing homes being remodeled than new homes being brought in.

Sandra Statzell was sworn in and testified in opposition to the application and stated that she has a summer home in Sea Air; that she has resided in the park since 1960; that she placed a new manufactured home in 2002 that measures 14' x 70'; that her new manufactured home meets all setback requirements; that the park is bringing in manufactured homes that are too big for the lots; that there are noise problems within Sea

Air; and that she does not want the view of the street impaired by new homes being placed to close to the street.

Joan Deaver was sworn in and testified in opposition to the application and stated that she has several friends that live in Sea Air and that setback requirements are important for safety issues.

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

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

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be taken under advisement. Vote carried 5 – 0.

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. 10252 – Sea Air- west of Route One, north of Sea Air Avenue, being Lot A-42 within Sea Air Mobile City Mobile Home Park.

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

Mr. Hutt requested to withdraw the application.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be **denied since it is not necessary**. Vote carried 5 – 0.

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.

Mr. Hutt requested to incorporate the initial comments for all three (3) cases.

Mr. Rickard presented the case. Cindy Surface was sworn in at a previous hearing along with David Hutt, Attorney, and testified requesting a 12-foot variance from the required 20-foot separation requirement between units, a 2.1-foot variance from the 20-foot separation requirement between units a 11.8-foot variance from the 20-foot separation requirement between units and a 2.3-foot variance from the 20-foot separation requirement between units; that a revised survey was submitted; that the lot contains 3,730-square feet; that the lot is currently vacant; that the surrounding sites have violations; that the previous manufactured home on the lot caught fire; and that the improvements meet the 35% lot coverage requirement.

Jeanne Sisk was sworn in at the previous hearing and testified in opposition to the application and stated the previous manufactured home met the 20-foot separation requirement; that the neighboring home was burnt due to the homes being too close; and that the 20-foot separation requirement is needed for safety reasons.

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

The Board found that 7 parties 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 5 – 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 for the applicant to submit a survey showing a 16' x 70' manufactured home on the lot.** Vote carried 5 – 0.

Case No. 10254 – Sea Air- west of Route One, north of Delaware Avenue, being Lot K-56 within Sea Air Mobile City Mobile Home Park.

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

Mr. Hutt requested to incorporate the initial comments for all three (3) cases.

Mr. Rickard presented the case. Cindy Surface was sworn in at a previous hearing along with David Hutt, Attorney, and testified requesting a 1.4-foot variance from the required 20-foot separation requirement between units and a 1.7-foot variance from the required 20-foot separation requirement between units; that a revised survey was submitted; that the lot contains 4,006-square feet; that the surrounding sites have violations; that the proposed manufactured home measures 16' x 70'; and that it will have a factory porch.

Sandra Statzell was sworn in at a previous hearing and testified in opposition to the application and stated that she lives down the street from this lot; that she has concerns that the steps will be too close to the property line; and that a smaller home could be placed on this lot.

Jeanne Sisk was sworn in at a previous hearing and testified in opposition to the application and stated she does not object to the porch as it is constructed of block; and that the adjacent manufactured home is in poor shape and could be damaged in the event of a fire due to the proposed home being too close.

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

The Board found that 8 parties appeared in opposition to the application.

Motion by Mr. Hudson, seconded by Mr. McCabe, and carried unanimously that the case be taken under advisement. Vote carried 5 – 0.

At the conclusion of the public hearing, the Chairman referred back to this case. 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. 10255- Phillips Farms, LLC- east of Road 497 and north of Road 494.

A special use exception to retain a manufactured home on less than five (5) acres and a variance from the front yard setback requirement.

Mr. Rickard presented the case. R.B. Kemp was sworn in and testified on behalf of the applicant and requested a special use exception to retain a manufactured home on less than (5) acres and a 19.9-foot variance from the required 40-foot front yard setback requirement; that the existing manufactured home has been on the property for 25 years; that it is currently being rented; and that the applicant would like to subdivide the parcel.

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 and variance be **granted since it will not substantially affect adversely the uses of adjacent and neighboring properties and since the manufactured home has been there for several years**. Vote carried 5 – 0.

Case No. 10256 – James Hadfield and Willard Grace- east of Route One, east of Tulip Drive, being Lot 18 within Dutch Acres development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. James Hadfield was sworn in and testified requesting a 5-foot variance from the required 10-foot side yard setback requirement for a guest house; that he purchased a Fillmore Cottage; that he would like to use it as a guest house; that the kitchen will be removed; and the he spoke to his neighbors and they have no objections.

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

Case No. 10257 – Gemcraft Homes- southeast of Road 363, being Lots 1401 through 1406 within Preserve At Jefferson Creek development.

A special use exception to place a manufactured home type structure as a sales office.

Mr. Rickard presented the case. Ron Wilkins was sworn in and testified requesting a special use exception to place a manufactured home type structure as a sales office; that the manufactured home would be a temporary sales office for 6 months to 1 year; that it will have a handicap ramp; that it will have no kitchen; that the unit measures 12' x 56'; that the site will be landscaped; and that it will have 8 parking spaces.

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

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the special use exception be **granted for a period of 1 year since it will not substantially affect adversely the uses of adjacent and neighboring properties**. Vote carried 5 – 0.

Case No. 10258 – Roxana Methodist Church- intersection of Road 392 and Road 382.

A special use exception for a second ground sign.

Mr. Rickard presented the case. Allen Burbage and Hester Holloway were sworn in and testified requesting a special use exception for a second ground sign; that they received a violation notice; that the sign has been there for 35 years; that the church established a covenant; and that the sign is used to announce activities.

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 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 advised the applicant they must obtain a building permit for the sign.

The Board took a 5-minute Recess

OLD BUSINESS

Case No. 10222 – Donovan Salvage Works, Inc.- northwest of Road 243, 1,200 feet south of Road 244.

A special use exception for secondary aluminum smelting.

The Board discussed the case, which has been tabled since August 18, 2008.

Motion by Mr. Mills, seconded by Mr. McCabe, 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. 10235 – Sea Air Village- south of Route One, west of Golden Avenue, being Lot M-62 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 8, 2008.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be **tabled for a new survey with a manufactured home without a porch.** Vote carried 5 – 0.

Case No. 10236 – Sea Air Village- south of Route One, west of Dodd Avenue, being Lot G-18 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 8, 2008.

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. 10237 – Sea Air Village- south of Route One, east of Center Avenue, being Lot D-31 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 8, 2008.

Motion by Mr. Hudson, seconded by Mr. McCabe, and carried unanimously that the variance be **granted since it meets the standards for granting a variance**. Vote carried 5 – 0.

Meeting Adjourned at 10:30 P.M.