



BOARD OF ADJUSTMENT

AGENDAS & MINUTES

The regular meeting of the Sussex County Board of Adjustment was held on Monday September 8, 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. Susan Isaacs – 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 August 18, 2008 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. 10234 – Clyde Hull and Joan Rudasill- east of Road 313A (Downs Landing Road).

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Clyde Hull and Joan Rudasill were sworn in and testified requesting a 5.5-foot variance from the required 40-foot front yard setback requirement; that the violation was not discovered until they went to settlement on the property; that they thought the problem was taken care of; that the wrong setbacks were issued on the building permit; that Mr. Ritter was scheduled for a hearing but did not show up; and that Mr. Ritter told them they did not need to attend the previous hearing that was scheduled.

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 was not created by the applicant, since it will not alter the essential character of the neighborhood and that the application fee be refunded to the applicant.** 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 City Mobile Home Park.

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

Mr. Rickard presented the case. Cindy Surface and Jose Ibarra were sworn in along with David Hutt, Attorney, and testified requesting a 8.9-foot variance from the required 20-foot separation requirement, a 2-foot variance from the required 20-foot separation requirement, a 2.1-foot variance from the 20-foot separation requirement, a 5.2-foot variance from the required 20-foot separation requirement and a 8-foot variance from the required 20-foot separation requirement; that the lot is irregular shaped; that it is only 1 of 2 lots shaped this way in the park; that it extends into lots on Block M; that the lots were laid out in the 1960's; that Mr. Ibarra has resided in Sea Air for 3 ½ years; that he would like to replace the existing home; that he has reviewed multiple floor plans; that he has three (3) children and needs to upgrade to a larger home; that the new home would be the same length; that the two (2) sheds will be removed; that the hardship was not created by the applicant; and that the majority of the homes in Sea Air have a separation problem.

Jeanne Sisk was sworn in and testified along with Paul Interline, Attorney, and stated that she is the President of the Home Owners Association; that the Home Owners Association has been in existence since 1982; that she has lived in Sea Air Mobile Home Park permanently since 1991; that the lots are small; that homes have been placed that do fit on the lots; that her Aunt previously owned the home that is in question; that there is a fire concern with homes being closer than 20-feet; that there are privacy issues; that there are noise problems; that there are mobile homes that do fit those lots; that there are six (6) organization members present in opposition; and that they are not opposed to sheds as they can be moved.

In Rebuttal, Cindy Surface stated that the shed that was on Lot M60 has since been moved to the back of the porch; and that the home would fit on the lot if the sheds and factory porch were removed.

The Board found that 3 parties appeared in support of the application.

The Board found that 11 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 until the September 22, 2008 meeting.** 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.

Mr. Rickard presented the case. Cindy Surface was sworn in at the previous case along with David Hutt, Attorney, and testified requesting a 1-foot variance from the required 20-foot separation requirement from the unit on Lot G20, a 6.3-foot variance from the required 20-foot separation requirement from the shed on Lot G20 and a 7.70-foot variance from the required 20-foot separation requirement from the shed on Lot G16; that Lot G-18 is shorter than the typical lot in Sea Air; that it measures 2,897-square feet; that the sheds on Lot G20 & Lot G16 do not comply with Sussex County code; that the proposed manufactured home will meet the 35% lot coverage requirement; that a new survey was submitted showing the proposed home moved closer to Lot G-16; that Lot G18 is currently vacant; that most people are looking to place a 3 bedroom, 2 bathroom home; that the proposed manufactured home is 800-square feet; that tenants desire to have decks and porches on their homes; that they are encouraged to look at factory porches due to setback issues; that it is difficult to place sheds; that if tenants have problems or concerns they report it to the manager; and that tenant must check with management office before replacing anything.

Bradford Bamberger was sworn in and testified in support of the application and stated that he is the President of the Homeowners Association; that there are two (2) Homeowners Associations for Sea Air; that there are small lots in Sea Air; that most families need a 3 bedroom and 2 bathroom home; that the new manufactured homes are well equipped with safety features; and that most sheds are equipped with electric.

Paul Interline, Attorney, testified on behalf of the opposition and stated that they do not oppose the application as modified but the home still will not meet the separation requirement from sheds.

The Board found that 3 parties appeared in support of the application.

The Board found that 11 parties appeared in opposition to the application.

Motion by Mr. Mills, seconded by Mr. McCabe, 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. McCabe, and carried unanimously that the case be **tabled until the September 22, 2008 meeting.** 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.

Mr. Rickard presented the case. Cindy Surface was sworn in and the previous case along with David Hutt, Attorney, and testified requesting a 4.7-foot variance from the required 20-foot separation requirement, a 3.9-foot variance from the 20-foot separation requirement from the shed on Lot D29, a 4-foot variance from the 20-foot separation requirement from the shed on Lot E30 and a 10-foot variance from the 20-foot separation requirement from the shed on Lot E32; that a new survey was submitted; that the lot is vacant; that the lot measures 3600-square feet; that Lot D33 has a screen porch addition and that is why the home is set the way it is; that the new manufactured home will measure 960-square feet; and that the proposed manufactured home will have a factory porch.

The Board incorporated the testimony in opposition from Jeanne Sisk.

Paul Interline, Attorney, testified stating that the manufactured home with a factory porch would be less desirable; and that the lot sizes need to be readjusted.

In Rebuttal, Mr. Hutt stated the community would not have a problem moving the homes however they would still need a variance due to the factory porch.

The Board found that 3 parties appeared in support of the application.

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

Mr. Rickard stated the office received 5 letters 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.

At the conclusion of the public hearings, the Chairman referred back to this case. Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the case be **tabled until the September 22, 2008 meeting**. Vote carried 5 – 0.

Case No. 10238 – Albert and Cecile Giannangeli- west of Route One, north of Todd Drive, being Lot 10 within Bay View Park development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Chris Holman, Attorney, was present on behalf of the applicant and testified requesting a 1.1-foot variance from the required 10-foot side yard setback requirement; that the home has been there for 20 years; that the certificate of occupancy was issued in 1989; that a rear yard variance was granted in 1989; that the violation was discovered at settlement; and that it would cause a hardship to remove a portion of the screen porch.

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 was not created by the applicant, 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. 10239 – Fred Brady- east of Road 279, north of Cherry Walk Drive, being Lot 5 within Cherry Walk development.

A special use exception to connect two (2) manufactured homes to make one (1) unit.

Mr. Rickard presented the case. Fred Brady was sworn in and testified requesting a special use exception to connect two (2) manufactured homes to make one (1) unit; that the existing manufactured home has been there for 12 years; that it measures 12' x 60'; that he has a manufactured home in Pennsylvania that he would like to attach to his existing manufactured home; that it will have siding, A-Frame roof and a block foundation; that he will remove one kitchen; that the two (2) sheds on the property will be removed and replaced with a new one.

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 be **granted since it will not alter the essential character of the neighborhood and with the stipulation that within one year the manufactured**

homes have an A-Frame Roof, block foundation, siding and only one (1) kitchen.
Vote carried 5 – 0.

Case No. 10240 – Flexera- east of Road 273A (Bald Eagle Road), west of Robin Road, being Lot 85, Section B-B within Bay Vista development.

A special use exception to place a windmill.

Mr. Rickard presented the case. Robert Light and Richard Baccino were sworn in and testified requesting a special use exception to place a windmill; that the windmill would have no visual impact on the neighbors; that the property is $\frac{1}{2}$ acre; that the windmill will be tied to the corner of the house; that the windmill will meet the 42-foot height requirement; that the windmill is rated to sustain winds up to 118 mph; that the

windmill will only produce approximately 10 decibels; that the vibration of the windmill is very low; and that a windmill would not be placed if it were detrimental.

Richard Monroe was sworn in and testified in opposition to the application and stated that he has concerns about safety issues and noise problems; that he lives approximately 300-feet from the applicant.

Joyce McCoy was sworn in opposition to the application and stated that she is in favor of change; that it is a small community; and that she needs more info on windmills.

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

The Board found that 2 parties appeared in opposition to the application.

Motion by Mr. McCabe, 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. Workman, and carried unanimously that the special use exception be **granted since it would not affect the uses of adjacent and neighboring properties.** Vote carried 5 – 0.

Case No. 10241 – Edna Harmon- west of Road 310, 1,293 feet north of Route 24.

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

Mr. Rickard presented the case. Edna Harmon was sworn in and testified requesting a 14.10-foot variance from the required 150-foot lot width requirement for a parcel; that she would like to split the parcel for her daughters.

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 is the minimum to afford relief and since it will not alter the essential character of the neighborhood with the stipulation that the parcels have a combined driveway.** Vote carried 5 – 0.

Case No. 10241 – ETSJR LLC- north of Route 9, 463 feet east of Nassau Commons Boulevard.

A variance from the maximum height requirement for a billboard.

Mr. Rickard presented the case. Ed Swytek was sworn in along with Gene Byard, Attorney, and testified requesting a 24-foot variance from the required 25-foot maximum height requirement for a billboard; that the case was previously approved on February 25, 2008; that the billboard is too low to the ground; and that there are safety issues with it being that low.

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.** Vote carried 5 – 0.

Case No. 10243 – Resort Homes, Inc.- south of Route 54, west of Swann Drive, being Lot 33, Block A within Swann Keys development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. James and Lynda Zigmant were sworn in and testified requesting a 4.4-foot variance from the required 10-foot side yard setback requirement, a 2.9-foot variance from the required 5-foot side yard setback requirement and a 7-foot variance for the AC unit; that they purchased the manufactured home in 1999; that it measures 14' x 70'; that the manufactured home needs to be replaced; that they would like to replace the existing manufactured home with a stick built home; and that many variances have been granted in the area.

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 is a small lot**. Vote carried 5 – 0.

OLD BUSINESS

Case No. 10206 – Steven D. Ward- south of Route 22, south of East Harbor Drive, being Lot 255 within White House Beach 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 August 4, 2008.

Motion by Mr. McCabe, seconded by Mr. Hudson, and carried unanimously that the variance be **granted since it is a small lot, since it does not affect the adjacent and neighboring properties and since other variances have been granted in the mobile home park**. Vote carried 5 – 0.

Case No. 10227 – Eugene Stowell- northeast of Road 412, 3.900 feet southeast of Road 433.

A variance from the minimum acreage requirement to place a manufactured home on a farm.

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

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variance be **denied since it does not meet the standards for granting a variance**. Vote carried 5 – 0.

OTHER BUSINESS

Case No. 9672 – 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 requirement.

Mr. Rickard read a letter from the applicant requesting a time extension.

Mr. Berl advised the Board that since the variance request has expired that the applicant is unable to request a time extension. The Board members did not vote.

Meeting Adjourned @ 9:20 P.M.