



# BOARD OF ADJUSTMENT

## AGENDAS & MINUTES

### MINUTES OF JANUARY 25, 2010

The regular meeting of the Sussex County Board of Adjustment was held on Monday January 25, 2010 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. Jennifer Norwood and Mrs. Kelly Passwaters – Recording Secretary.

Motion by Mr. McCabe, seconded by Mr. Workman, and carried unanimously to approve the Revised Agenda as circulated with the correction that Case No. 10556 has been withdrawn. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of the January 4, 2010 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. 10552 – John H. Ebelein**- east of Road 273, northeast of Eight Street, being Units 323 and 324 within Bay Vista development.

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

Mrs. Norwood presented the case. John Ebelein, Attorney, testified requesting a 6.2-foot variance from the required 30-foot front yard setback requirement for an existing dwelling and a 1.6-foot variance from the required 20-foot rear yard setback requirement for an existing porch; that the dwelling was constructed two (2) years ago; that the property owner was not aware of the violation until he purchased the property; and that the certificate of occupancy was issued.

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 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. 10553 – Michael and Marijo Addlesberger-** north of Route 54, east of Canvasback Road, being Lot 7, Block D within Swann Keys development.

A variance from the side yard setback requirements.

Mrs. Norwood presented the case. Charles Shade was sworn in and testified requesting a 5-foot variance from the required 10-foot side yard setback requirements on both sides for a proposed dwelling, AC units and steps; that the applicant would like to install new manufactured home on the current vacant lot; that the home measures 24' x 66'; and that the AC unit will meet setbacks.

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

Motion by Mr. McCabe, seconded by Mr. Hudson, and carried unanimously that the variances be **granted since it is a small lot, and since it will not alter the essential character of the neighborhood.** Vote carried 5 – 0.

**Case No. 10554 – Charles R. and Alison Williams-** north of Road 297, east of Circle Drive, being Lot 9, Section 2, Block B within Orchard Manor development.

A variance from the front yard setback requirement.

Mrs. Norwood presented the case. Charles and Alison Williams were sworn in and testified requesting a 4-foot variance from the required 30-foot front yard setback requirement for a proposed manufactured home and proposed detached garage; that they are moving the exiting home from Bay City Mobile Home Park; and that the steps will not be covered.

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

Motion by Mr. Hudson, seconded by Mr. Workman, and carried unanimously that the variances be **granted since the lot is unique in size, 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. 10555 – Vernon G. and Laura H. Mills-** east of Road 279, south of Oak Drive, being Lot 115 within Angola Neck Park development.

A variance from the side yard setback requirement.

Mrs. Norwood presented the case. Jane Patchell, Attorney, testified requesting a 4-foot variance from the required 10-foot side yard setback requirement for an attached garage; that the mother and son-in-law are wheel chair bound; that the proposed dwelling and garage will be handicap accessible; that the garage will accommodate a wheel chair lift inside; that the proposed dwelling measures 28' x 60'; and that the proposed garage measures 24' x 26'.

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 is unique, 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. 10556 – Xergy, Inc. –** west side of U.S. Route 113, 323 feet north of Road 337.

A special use exception for determination of use as light industrial pilot production.

Mrs. Norwood stated the office received a letter withdrawing the application.

**Case No. 10557 – Thomas and Mary Nocella-** north 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. Norwood presented the case. Bruce Stoehr was sworn in and testified on behalf of the applicant requesting a 5-foot variance from the required 10-foot side yard setback requirement for a dwelling, and a 8.25-foot variance from the required 10-foot side yard setback requirement for HVAC units; that the applicant received a variance approval on November 2, 2009 for the south side of the property; that the lot is narrow; that there are numerous homes in Swann Keys with 5-foot side yard setbacks; that the existing mobile home is currently located 5-foot from the North property line; and that the neighborhood was designed for single wide mobile homes.

David and Wadeen Glaze were sworn in and testified in opposition to the application and stated that they live next door to the applicant; that the address is incorrect on the application; that they did not object to the previous variance approval; that a 2 story home could cause mold, mildew to their home and drainage problems on their property; that the noise will increase due to two (2) AC units being so close to the

property line; that it is a possible fire hazard by being so close to the property line; that the lot can be developed without the need for a variance; that most homes on Canvasback Road are one story; that they has concerns with storm water run off; and that they submitted a petition in opposition to the case.

Mr. Nocella testified stating the existing home is in the same footprint; that a two (2) story home does not affect the sun; that there will be no doors located on the side of the home; and that he does not want the AC units moved to another location.

In Rebuttal, Mrs. Glaze stated that she did not oppose the variance request that was approved; that the lot is currently vacant; that a two (2) story home causes shadows; that the previous home was located 6.8-foot from the property line; and that she submitted photos.

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

The Board found that 2 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. Workman, and carried unanimously that the case be **denied since it does not meet the standards for granting a variance**. Vote carried 5 – 0.

**Case No. 10558 – John and Elizabeth Evans-** north of Route 54, Blue Bill Drive, being Lot 59, Block G within Swann Keys development.

A variance from the side yard setback requirement.

Mrs. Norwood presented the case. John and Elizabeth Evans were sworn in and testified requesting a 4.5-foot variance from the required 5-foot side yard setback requirement for a shed; that they would like to place a 10' x 16' shed; that it will be placed in the same footprint as the previous shed; and that the neighbor does not object.

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 the lot size is unique, since it will not alter the essential character of the neighborhood, since it is the minimum variance to afford relief, and since it enables reasonable use of the property**. Vote carried 5 – 0.

**Case No. 10559 – Dennis Wayne and Janice L. Marvel-** east of Zion Church Road, 804 feet south of Evans Road.

A special use exception to place a billboard and a variance from the maximum height requirement, maximum square footage requirement, and setback requirements for a billboard.

Mrs. Norwood presented the case. Dennis and Janice Marvel were sworn in and testified requesting a 5-foot variance from the required 25-foot maximum height requirement for a billboard, a variance from the required 300-foot setback from a dwelling, church, school or public lands or another sign, a 600-square foot variance from the required 600 total square footage for an off premise sign, a 30-foot variance from the required 50-foot side yard setback requirement for an off premise sign exceeding 200-square foot, and a special use exception for a billboard; that the property is zoned C-1; that they would like to place four (4) 10' x 30' billboards; that they will be placed on salt treated poles; that the upper boards will only be lighted; and that there was a 20% cost difference between two (2) billboards and four (4) billboards.

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 variances be **granted since it will not alter the essential character of the neighborhood**. Vote carried 5 – 0.

**Case No. 10560 and Case No. 10534 – Lisa Gillette-** north of Rosemary Street, intersection east of Bay Shore Drive, being Lot 58, Block H within Joseph D. Short 1<sup>st</sup> Addition development.

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

Mrs. Norwood presented the case. Lisa Gillette and Matt Dotterer were sworn in and testified requesting a variance from the front yard and side yard setback requirements; that she is changing the flat roof to make a pitch roof; and that the shed is being moved to meet setbacks.

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

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the variances be **granted since it is unique, since it enables reasonable use of the property, since it will not alter the essential character of the neighborhood, and since it is the minimum variances to afford relief**. Vote carried 5 – 0.

**OLD BUSINESS**

**Case No. 10550 – Landreth C. Adams, Jr.** – southeast of Route 9, 562 feet west of Road 446.

A special use exception to retain a manufactured home on less than five (5) acres.

The Board discussed the case, which has been tabled since January 4, 2010.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be **tabled so it can be re-advertised correctly**. Vote carried 5 – 0.

**Case No. 10548 – Jocelyn and Orvine E. Reidell, III-** east of Route 22, east of berry Street, being Lot 1 within Bay City Mobile Home Park.

A variance from the rear yard setback requirement and a variance from the maximum allowable lot coverage in a mobile home park.

Mrs. Norwood presented the case for the continuation of the Public Hearing on December 21, 2009. Janet Olivia was sworn in and testified stating that she tells all leaseholders they must follow County regulations; that she was not aware Mr. Reidell applied for a building permit; that she was not aware the deck did not meet setbacks; that she tried to expand the lot but was denied; that Mr. Reidell purchased his home from her; that she suggested that the front deck be dropped to ground level; that she is currently working with storm water management on drainage problems in the park; that she is not longer filling in the lots; that Mr. Reidell's lot has minimum fill on it; that there is a 8 inch drainage pipe in front of Mr. Reidell and Mr. DelRossi's property; that Mr. DelRossi hired a contractor to construct his deck; and that she will correct the situation on Mr. Reidell's property at no cost to him.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the case be **denied**. Vote carried 5 – 0.

### **OTHER 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.

This is a request for a rehearing.

Motion by Mr. Workman, seconded by Mr. Mills, and carried unanimously that the case may be **reheard and the applicant shall pay the application fee**. Vote carried 5 – 0.

**Meeting Adjourned at 9:17 P.M.**