

# **TOWN OF GEORGETOWN - BOARD OF ADJUSTMENT**

---

## **Meeting Minutes February 3, 2021**

**In accordance with the State of Emergency Declaration issued by Governor John Carney that became effective on March 13, 2020, and as extended, all public meetings of the Town of Georgetown shall be conducted electronically through Zoom until further notice to prevent unnecessary public gatherings.**

zoom.us/join  
Zoom Meeting ID: 943 2727 1797

### **ATTENDANCE**

#### **Board Members**

**Jane Hovington  
Eric Evans  
Ron Howard  
Tom Sherman - absent  
Tom Baker**

#### **Staff**

**Jamie Craddock  
Jocelyn Huff  
John Paradee, BOA Solicitor**

**Introduction to remote open meeting by Planning Administrator Jocelyn Huff.**

### **1. CALL MEETING TO ORDER**

Chairperson Hovington called the meeting to order at 5:00 p.m.

### **2. APPROVAL OF DECEMBER 2, 2020 MEETING MINUTES**

**Member Evans moved, seconded by Member Howard, to approve the December 2, 2020 regular meeting minutes as presented.**

**Roll call vote:**

**Member Evans – Yes**

**Member Howard – Yes**

**Member Baker – Yes**

**Chair Hovington – Yes**

**APPROVED (UNANIMOUS)**

### **3. Public Hearing BOA CASE #2020-21**

*An application by Julia Jimenez, requesting from §230 Attachment 1 Height Area and Bulk Requirements of the Code of the Town of Georgetown (1) a variance for the reduction of the required lot area of 7,200 sq feet to the proposed 1,927 sq feet (2) a variance for the reduction of the required 60' lot width to the proposed 17' (3) a variance from the required 25' front yard setback to the proposed 2.8' (4) a reduction of the required 10' side yard setback to the proposed 0' (5) a reduction of the required 15' corner side yard setback to the proposed 0' (6) a variance for the reduction of the required 120' lot depth to the*

*proposed 60'. The property is located at 118 South Railroad Avenue, identified as (part of) Sussex County Tax Map ID 135-15.17-146.00, zoned HD (Historic District).*

The application was presented by Ryan Adams, on behalf of Julia Jimenez, also in attendance. A 1991 subdivision plan was approved by the Town of Georgetown but never recorded. A tax parcel needs to be assigned in order to transfer to new owner. With approval of these lot and setback variances, applicant can resubmit plan for Town approval and have the subdivision recorded. Property is actually under the name of New Town Home LLC, the adjacent property owner. Documents were provided to the Town Solicitor clearly showing the property is not included in their deed and they have no claim. Taxes have always been paid by applicant and were included by the Town in with another property. The property and house have existed since 1993, when purchased. The character of the neighborhood is not altered by the location of the house. Compliance with the code would be impossible. The owner confirmed that the information presented was correct.

The Planning department confirmed that no correspondence was received regarding the application.

Chairperson Hovington asked for public comment in support of the application.

Gene Dvornick, Town Manager, confirmed extensive legal discussions regarding the property and the result was this application for the Board. The Town is in support of the application.

Chairperson Hovington asked for public comment in opposition of the application.

No comments were given.

The applicant confirmed that the house is shown by the County as part of the parcel owned by New Home Town but the description in their deed does not include its dimensions.

John Paradee, Board Solicitor, confirmed that the applicant's counsel is correct with his statements.

Chairperson Hovington confirmed that based on the legal standards for a variance, approval would not be contrary to public interest and there would hardship to the applicant with exceptional practical difficulty if not approved.

For the record, the Board Solicitor read the six area variances requested:

1. To reduce the required lot area from 7,200 sq ft to the proposed 1,927 sq ft.
2. To reduce the required 60 feet lot width to the proposed 17 feet.
3. To reduce the required 25 feet front yard setback to the proposed 2.8 feet.
4. To reduce the required 10 feet side yard setback to the proposed 0 feet.
5. To reduce the required 15 feet corner side yard setback to the proposed 0 feet.

6. To reduce the required 120 feet lot depth to the proposed 60 feet.

There is an obvious practical difficulty for the applicant given that the property was subdivided in 1991 and the condition has existed in the neighborhood. It is apparent from the testimony that the harm to the applicant if denied would be much greater than the probable effect on the neighboring properties if the variances were approved.

A question was asked regarding the steps over the property line approximately six inches and the structure is over the boundary of the adjoining property. The Board solicitor stated that the existing dwelling and encroachment onto the adjacent lands is a matter of private property rights, and the Board can grant the variance to allow a zero setback, but that will not cure any potential problem with the neighbor. If the encroachment causes a problem in the future, it will need to be resolved between those property owners. The condition has existed almost 30 years. Resolution of that issue is beyond the purview of this Board.

**Member Evans moved, seconded by Member Howard, to approve the six area variances, as outlined by the Board Solicitor for the reasons stated. The condition has existed for years and there is no adverse impact on the neighborhood. The decision is not to impede on another property.**

**Roll call vote:**

**Member Evans – Yes, per motion.**

**Member Howard – Yes, per motion.**

**Member Baker – Yes, overdue issue and per motion.**

**Chair Hovington – Yes, practical difficulty, needs to be done.**

**APPROVED (UNANIMOUS).**

#### **4. Public Hearing BOA CASE #2021-02**

*An application by Sussex Sports Center Foundation, requesting from §230-75.19 E.(2) and 230-168 B. of the Code of the Town of Georgetown (1) a variance to allow an increase in signage from allowable 12 square feet to the proposed 112 square feet (2) an increase from the allowable 8' height to the proposed 25' height (3) to be internally illuminated; and from 230-176 J. (4) a variance to allow a 6' x 10' LED Electronic Message Board sign to be wall mounted to a building located centrally on the property. The property is located at 20330 Sandhill Road, identified as Sussex County Tax Map ID 135-15.00-26.00 & 26.06, zoned UR3/RPC (Neighborhood Residential District & Residential Planned Community).*

The Planning department confirmed that no correspondence was received regarding the application.

The application was presented by Brad Leinbach, on behalf of the Sussex Sports Center Foundation and Sandhill Fields. Request is for a roadside sign, 25' high, 14' at the widest and 5' wide at the base for their park, which is 56 acres. It will provide visitors the ability

to locate the park and fits the size of the property. The internal illuminations would be able to be turned off at night and will not direct light to nearby homes and brightness can be controlled. The Electronic Message Board (EMB) will be inside the complex, attached to the side of a building with dimensions of 6' x 10'. The EMB will be turned off at night and have the ability to be dimmed. The message board will inform the public of closures, dangers such as extreme heat and hydrating and any events.

Chairperson Hovington asked for public comment in support or against the application.

Phyllis Soboczenski, lives in Lewes, but owns property across the street and down a bit from the property in question. It is 12 acres and within the Town of Georgetown. She agrees the applicant needs a larger sign for the ability of those to find it and has no problem with the interior sign. She is concerned with a 25' tall sign, illuminated and the precedent it sets if approved for the adjacent properties. The area is essentially residential and the future development will want the large signage too.

The applicant stated that the location of the sign has been approved on the site plan.

The Board questioned the sight triangle of visibility of the 25' sign. Is the intent to advertise from Route 9 and did the applicant look at a monument sign? The applicant confirmed that the visibility is wanted from all main roadways especially Route 9. A mound sign would not provide as much visibility and the adjacent berms require the sign to be above them. The maximum height would be the 25', the minimum would be 12'. The very top portion of the sign would be lighted (8' x 14'). The sign would be 25' set off of the right of way.

Concern was expressed that the sign is extremely tall at 25' tall. The applicant stated that based on the scope and size of their business, 25' is justification with 56 acres. It was confirmed that the base is just over 16' with an 8' tall sign. The applicant stated the height could be reduced.

The Board Solicitor confirmed that the sign in RPC overlay zoning is to meet the requirements of UB2 zoning (per §230-75). Maximum area of 12' sq ft and maximum height of 8' is allowed within UB2. The test for an area variance is to weigh the relative harm to the applicant if the variance is denied and the relative harm to the neighborhood if the variance is granted. Another part is whether the dimensional change is minimal. Is the request minimal? A compromise could be considered.

It was determined that the 112 sq ft area total is high as the signage is not a full 8' x 14' rectangle and should calculate to less. The definition of sign area was confirmed to not include the supporting structure.

The Board Solicitor suggested an opportunity to discuss code impacts with the applicant and the Town in regards to the ordinances prior to a decision being made. The 3<sup>rd</sup> and 4<sup>th</sup> variances requested are held to different standards as they are not permitted in the zoning of the property.

Member Evans moved, seconded by Member Baker, to table the application, to allow for discussion between the applicant, solicitor and the Town staff regarding the requests.

**Roll call vote:**

Member Evans – Yes

Member Howard – Yes

Member Baker – Yes

Chair Hovington – Yes, due to all of the questions presented.

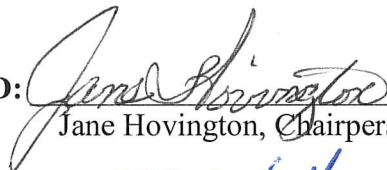
**APPROVED (UNANIMOUS).**

**4. ADJOURNMENT**

Member Evans moved, seconded by Member Baker, to close the meeting at 6:08 p.m.

**APPROVED (UNANIMOUS)**

**APPROVED:**

  
Jane Hovington, Chairperson

**ATTEST:**

  
Jocelyn Huff, Planning Department