



Board of Adjustment
Agendas & Minutes

MIINUTES OF SEPTEMBER 11, 2006

The regular meeting of the Sussex County Board of Adjustment was held on Monday, September 11, 2006, 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 Vice-Chairman McCabe presiding. The Board members present were: Mr. Ronald McCabe, Mr. John Mills, Mr. Brent Workman and Mr. Jeff Hudson, with Mr. Richard Berl – Assistant County Attorney, and Ms. Dawn Hudson – Secretary to the Board, Mrs. Melissa Thibodeau, Zoning Inspector, and Mrs. Jennifer Norwood – Recording Secretary.

Motion by Mr. Hudson, seconded by Mr. Mills, and carried unanimously to approve the Revised Agenda as circulated. Vote carried 4 – 0.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously to approve the Minutes of August 21, 2006 as circulated. Vote carried 4 – 0.

Mr. Berl read a statement explaining how the Board of Adjustment meeting is conducted and the procedures for hearing the cases.

Case No. 9601 – Anthony and Kristin Etze – east of Road 288A, west of Holly Oak Lane, being Lot 31 within Holly Oak development.

A variance from the front yard setback requirement for a through lot.

Ms. Hudson presented the case. Anthony Etze was sworn in and testified requesting a 25-foot variance from the required 40-foot front yard setback requirement for a through lot; that the proposed garage will measure 24'x 24'; that the Board granted a variance for the garage in September 2004; that he never started construction on the garage; that there are other variances in the development; that the building would be too close to his dwelling if it was built to comply with the setback requirements; and that he submitted 3-letters in support of the application.

The Board members 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 variance be **granted since it is unique by being a through lot and since it will not alter the character of the neighborhood**. Vote carried 4 – 0.

Case No. 9602 – Clear Channel Outdoor – west of U.S. Route 13, 200 feet north of Road 535.

A special use exception to replace an existing billboard.

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Ms. Hudson presented the case. Rick Phillips was sworn in and testified requesting a special use exception to replace an existing billboard; that the existing billboard was installed in 1987; that the existing billboard has 3 billboard facings; that one side measures 10'x 32' and the other side has two billboard facings measuring 12'x 24'; the proposed billboard will be a steel mono-pole structure, 2-sided measuring 12'x 25'; that the proposed billboard will meet all required setback requirements; and that the billboard will be 25-foot in height.

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 have no substantial effect adversely to the adjacent and neighboring property**. Vote carried 4 – 0.

Case No. 9603 – Clear Channel Outdoor – north of Road 535, 150 feet west of U.S. Route 13.

A special use exception to replace an existing billboard and a variance from the side yard setback requirement.

Ms. Hudson presented the case. Rick Phillips was sworn in and testified requesting a special use exception to replace an existing billboard and an 11-foot variance from the required 50-foot side yard setback requirement for a billboard; that the existing billboard measures 8'x 16' with one facing; that the proposed billboard will be a steel mono-pole structure measuring 12'x 25' and will be two-sided; that the property owner owns the adjacent parcels; that the billboard will be placed in the same location as the existing billboard; and that he submitted pictures.

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 and variance be **granted since it will have no substantial effect adversely on the adjacent and neighboring property**. Vote carried 4 – 0.

Case No. 9604 – Doris A. DeLong – southwest of Road 214, 2,550 feet south of Road 207.

A variance from the side yard setback requirement.

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Ms. Hudson presented the case. Doris DeLong and Terry DeLong were sworn in and testified requesting a 7-foot variance from the required 10-foot side yard setback requirement for a proposed addition; that the existing dwelling is only 4-foot from the property line; that the dwelling was built in 1954; that the property line was originally marked by a fence; and that the shed will be moved into compliance.

The Board members 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 for a 7-foot variance and with the stipulation that the shed be moved into compliance since it meets the standards for granting a variance**. Vote carried 4 – 0.

Case No. 9605 – James O. Green – north of Road 357, north of Piney Point Road Extended, being Lot 14 within Piney Point development.

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

Ms. Hudson presented the case. James Green was sworn in and testified requesting a 4-foot variance from the required 10-foot side yard setback requirement and a 0.1-foot variance from the required 10-foot rear yard setback requirement for an upper level deck; that he was granted a variance for the second floor deck; that the third floor deck was not included in the previous request; that his builder Dan Kerigan did not realize the upper level deck would need to be included in the previous variance; and that there have been repairs to his bulkhead due to storms and he has lost property to erosion.

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 case be taken under advisement. Vote carried 4 – 0.

At the conclusion of the public hearings, the Vice-Chairman referred back to this case. Motion by Mr. Hudson, seconded by Mr. Workman, and carried unanimously that the variances be **granted and that a letter be sent to the builder**. Vote carried 4 – 0.

Case No. 9606 – Hany S. Malek and Melad M. Fam – south of Road 234, 529 feet east of Route One.

A variance from the front yard setback requirement.

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Ms. Hudson presented the case. Larry Fifer, Attorney, was present on behalf of the application, and testified requesting a 0.6-foot variance from the required 40-foot front yard setback requirement for an existing manufactured home; that the unit was placed on the lot in 1993; that a recent survey showed the encroachment; that to move the unit now would create a hardship for the owners; and that they will either move the shed into compliance or have it removed from the lot.

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

Motion by Mr. Workman, seconded by Mr. Hudson, and carried unanimously that the variance be **granted with the stipulation that the Applicant obtain a building permit for the shed or have the shed removed since it is the minimum variance to afford relief**. Vote carried 4 – 0.

Case No. 9607 – Scott Rukowicz – east of Road 321, north of Hickory Drive, being Lot 14 within Piney Grove Manor development.

A variance from the front yard setback requirement.

Ms. Hudson presented the case. Scott Rukowicz was sworn in and testified requesting a 15.59-foot variance from the required 30-foot front yard setback requirement for a proposed addition; that the addition will measure 18'x 26'; that the addition will be a master bedroom and bath; that the addition cannot be built anywhere else on the lot; and that there are other variances in the development.

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 case be taken under advisement. Vote carried 4 – 0.

At the conclusion of the public hearings, the Vice-Chairman referred back to this case. Motion by Mr. Workman, seconded by Mr. Hudson, and carried unanimously that the case be **tabled until September 25, 2006**. Vote carried 4 – 0.

Case No. 9608 – William C. and Doris R. Betts – southwest of Road 326, 800 feet south of Road 432.

A variance from the maximum age requirement for placement of a manufactured home.

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Ms. Hudson presented the case. William and Doris Betts were sworn in and testified requesting a variance from the maximum age requirement for placement of a manufactured home; that the unit is a 1985, 26' x 54'; that they have subdivided a parcel of land for their son; that their son is disabled and cannot afford a new manufactured home; that they did not want to apply for a medical hardship since that would only be a temporary situation; and that they submitted pictures.

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 taken under advisement. Vote carried 4 – 0.

At the conclusion of the public hearings, the Vice-Chairman referred back to this case. Motion by Mr. Workman, seconded by Mr. Mills, and carried unanimously that the case be **tabled until September 25, 2006**. Vote carried 4 – 0.

Case No. 9609 – Barbara and James DePriest – north of Route 54, east of Swann Drive, being Lot 8A within Swann Point development.

A variance from the front yard setback requirement.

Ms. Hudson presented the case. Barbara DePriest and James Loulodes were sworn in and testified requesting a 4.5-foot variance from the required 20-foot front yard setback requirement for a proposed dwelling; that the location of the unit will be in line with the other units in the development; that the Homeowner's Association supports the application; and that they plan to build a deck in the rear of the dwelling.

The Board members 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 variance be **granted since it will not alter the character of the neighborhood since it is a minimum variance to afford relief; and there have been numerous variances granted in the development.** Vote carried 4 – 0.

Case No. 9610 – Cape Wine & Spirits – northwest intersection of Dartmouth Drive and Route One.

A variance from the maximum square footage for signs and a variance for additional wall signs.

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Ms. Hudson presented the case. Eric Brinsfield was sworn in and testified requesting a 245-square-foot variance from the required 100-square-foot maximum allowable square footage for a wall sign and a variance for additional wall signs; that the business is located behind the Citizen's Bank; that the signs cover 6.5% of the wall; that it is all new construction; and that he submitted pictures.

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 variances be **granted since it meets the standards for granting a variance.** Vote carried 4 – 0.

Case No. 9611 – Manny's Car Wash – northeast of Route 1-A, 1,000 feet west of Road 273.

A variance from the maximum height requirement for a sign.

Ms. Hudson presented the case. Kim Diehl and Emanuel Blavakis were sworn in and testified requesting a 15-foot variance from the required 25-foot maximum height requirement for a sign; that the proposed billboard will be 40-foot in height; that the surrounding billboards range in height from 43-foot to 55-foot; that the billboard will not be out of character with the neighborhood; and that the height will not obstruct neighbor's view.

Bill Hatzinikolaou was sworn in and testified in opposition to the application and stated that he owns the adjacent property; that he feels the proposed billboard should meet the required setback requirements; that the Applicant has to access the existing billboard from his property; and that he submitted pictures.

In rebuttal, Kim Diehl, stated that the proposed billboard will be only accessible from the Applicant's property; and that there will be a catwalk around the billboard.

By a show of hand 1 party 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 4 – 0.

At the conclusion of the public hearings, the Vice-Chairman referred back to this case. Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the variance be **granted with the stipulation that billboard will have a catwalk and only**

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have access from the Applicant's property since it meets the standards for granting a variance. Vote carried 4 – 0.

Case No. 9612 – William and Sharon Kandravi – northeast of Road 327, west of Shady Lane, being Lot 2 within Shady Lane development.

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

Ms. Hudson presented the case. William Kandravi was sworn in and testified requesting a 9.2-foot variance from the required 15-foot side yard setback requirement and a 9-foot variance from the required 20-foot rear yard setback requirement for an existing detached garage; that the encroachment was discovered on a survey done for settlement; that the detached garage has been on the property for approximately 20-years; and that a Certificate of Compliance was issued.

Ms. Hudson stated that the office received 2 letters in support of the application.

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

Motion by Mr. Hudson, seconded by Mr. Workman, and carried unanimously that the variances be **granted since it will not alter the character of the neighborhood and since it is the minimum variance to afford relief.** Vote carried 4 – 0.

Case No. 9613 – American Tower Corporation – south of Road 26, 50 feet west of Road 17.

Amend the stipulations of approval for Case No. 9424 (Omnipoint Communications).

Ms. Hudson presented the case. Storm Siepp was sworn in with David Hutt, Attorney, present on behalf of the application, and testified requesting an amendment to the stipulations of approval for Case No. 9424 Omnipoint Communications; that they are requesting that the tower have no lighting; that the FAA does not require lighting on towers less than 200-foot; that if the FAA does require lighting it would be at the midpoint and top of the tower; that they are concerned pilots will become disoriented having lighting differ from the Federal regulations; that agriculture (crop-dusters) planes are only to fly below 500-foot when dispensing spray on the crop; that the crop-duster planes are to only fly during daylight hours; that he has contacted three different carriers in reference to the required lighting stipulated by the Board; that there is not a light on the market that changes in inclement weather; that the light available would work from dusk to dawn; that towers he checked within the County had the photocell lights which work dusk to dawn and disperse a lot of light on the ground; and that the location of this tower

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is not in a rural area and the light will be very disturbing to the surrounding property owners.

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 taken under advisement. Vote carried 4 – 0.

At the conclusion of the public hearings, the Vice-Chairman referred back to this case. Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the case be **tabled until September 25, 2006**. Vote carried 4 – 0.

Case No. 9614 – Kevin T. Harmon and Hillrey J. D. Blake – north of Road 92, east of Owens Lane, being Lot 1.

A variance from the front yard setback requirement.

Ms. Hudson presented the case. Kevin Harmon and Hillrey Blake were sworn in with Jim Yori, Attorney, present on behalf of the application, and testified requesting a 13.2-foot variance from the required 30-foot front yard setback requirement for an existing dwelling; that they purchased the property in 2005; that the Applicant was the General Contractor; that the cul-de-sac that shows on the survey does not exist on the property; that they followed the side yard setback requirement for the dwelling unaware of the cul-de-sac; that he obtained the building permit; that the Certificate of Occupancy has been issued on the dwelling; that the request does not alter the character of the neighborhood; that it would create an extreme hardship to correct the encroachment; and that this is the minimum variance to afford relief.

The Board members 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 4 – 0.

Case No. 9615 – Gemcraft Homes – south of Route 16, 2,255 feet east of Route 30, being Lot 46 within Pemberton development.

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

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Ms. Hudson presented the case. Judy Hubbard was sworn in and testified requesting a special use exception to place a manufactured home type structure as a sales office; that the unit measures 12' x 52'; that the unit will be needed for approximately 4 to 6 months; that the unit will be removed when the model is complete; and that the unit will have landscaping and adequate parking.

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 for a period of six (6) months since it will have no substantial effect to the neighborhood**. Vote carried 4 – 0.

OLD BUSINESS

Case No. 9394 – Diana Barone – south of Route 22, south of West River Drive, being Lot 48 within White House Beach Mobile Home Park.

A variance from the separation requirement between units in a mobile home park and a variance from the side yard and front yard setback requirements.

The Board discussed the case which has been tabled since March 6, 2006.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be **tabled until an accurate survey can be provided**. Vote carried 4 – 0.

Case No. 9518 – Cheryl S. West – south of Road 443A, 2,800 feet west of road 62.

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

The Board discussed the case which has been tabled since June 19, 2006.

Motion by Mr. Hudson, seconded by Mr. Workman, and carried unanimously that the special use exception be **granted**. Vote carried 4 – 0.

Case No. 9563 – Paul and Sherrill Jorgensen – north of Road 312, southwest of Nanticoke Avenue, being Lot 156 within Riverdale Park.

A variance from the side yard setback requirement.

The Board discussed the case which has been tabled since July 24, 2006.

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Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variance be **granted since it will not alter the character of the neighborhood and since it is the minimum variance to afford relief**. Vote carried 4 – 0.

Case No. 9581 – Manny’s Car Wash – northeast of Route 1-A, 1,000 feet northwest of Road 273.

A special use exception to replace an existing billboard, a variance from the front yard and side yard setback requirements, and a variance from the maximum allowable square footage requirement for a sign.

The Board discussed the case which has been tabled since August 7, 2006.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the special use exception and variances be **granted with the stipulation that the billboard have a catwalk around the billboard and that the billboard can only be accessed from the Applicant’s property**. Vote carried 4 – 0.

Meeting Adjourned 9:30 p.m.