



*Board of Adjustment*  
Agendas & Minutes

**MINUTES OF APRIL 17, 2006**

The regular meeting of the Sussex County Board of Adjustment was held on Monday, April 17, 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 Chairman Callaway presiding. The Board members present were: Mr. Callaway, Mr. McCabe, Mr. Mills, Mr. Workman and Mr. Hudson, with Mr. Berl – Assistant County Attorney, Ms. Hudson – Secretary to the Board, and Mrs. Norwood – Recording Secretary.

Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously to approve the Agenda as circulated. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of April 3, 2006 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.

**Case No. 9455 – James Duncan-Longfin LLC** – south of Route 54, east of Roosevelt Avenue, being Lot 5, Block 7 within Cape Windsor development.

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

Ms. Hudson presented the case. Gerald Hudson and James Duncan were sworn in and testified requesting a 4.7-foot variance from the required 10-foot side yard setback requirement and a 5-foot variance from the required 20-foot rear yard setback requirement for a proposed dwelling; that similar variances have been granted in the development; that the Homeowner's Association is in support of the application; and that a letter was submitted in support of the application.

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 character of the neighborhood**. Vote carried 5 – 0.

**Case No. 9456 – Bijan Sistani** – southwest of Route 54, west of Madison Avenue, being Lot 152 within Edgewater Acres development.

A variance from the side yard setback requirement.

Ms. Hudson presented the case. Bijan Sistani was sworn in and testified requesting a 1.5-foot variance from the required 5-foot side yard setback requirement for

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a detached gazebo; that his previous case was denied by this Board; that he wants to relocate the gazebo to the rear of the property; and that in order to access the entrance to the gazebo it needs to be set into the setback.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to re-hear this case. Vote carried 5 – 0.

Kim Lacham was sworn in and testified in opposition to the application and stated that she was in opposition of the first case in 2005; that the gazebo has never been removed from the property; that she is concerned and upset as to why the Applicant has not had to comply with the denial of the first case; and that she does not have an objection to the gazebo being placed in the rear of the property.

The Board explained to the opposition that due to the Applicant having re-applied for this case he was able to keep the gazebo on the site until after this hearing.

By a show of hands 1 party appeared in support of the application.

By a show of hands 2 parties appeared in opposition to the application.

Ms. Hudson stated that the office received 1 letter in opposition to the application.

Motion by Mr. McCabe, seconded by Mr. Workman, 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 and that the gazebo be set in place within sixty (60) days**. Vote carried 5 – 0.

**Case No. 9457 – LTL Acres LP** – north side of the intersection of Road 462 and U.S. Route 13.

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

No one appeared on behalf of the application.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be **denied due to lack of representation**. Vote carried 5 – 0.

**Case No. 9458 – John F. and Mary F. Dockum** – north of Route 54, southwest of Bay Berry Road, being Lot 45, Block H, Subdivision 3 within Keen Wik development.

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A variance from the side yard setback requirement.

Ms. Hudson presented the case. Richard Hitchens was sworn in and testified requesting a 5.7-foot variance from the required 10-foot side yard setback requirement for an attached shed, a 6.1-foot variance from the required 10-foot side yard setback requirement for an outside shower and a 6-foot variance from the required 10-foot side yard setback requirement for an attached garage; that the Applicant needs to install an elevator for his handicapped wife; that the elevator shaft will be located over an existing concrete pad; that the air conditioning units will be relocated; that the Homeowner's Association is in support of the application; and that the Applicant was unaware of the other encroachments until he had a survey done for this application.

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 5 – 0.

**Case No. 9459 – Aaron and Dawn Carey** – west side of intersection of Lake Drive and Route 24.

A special use exception to operate a day care facility.

Ms. Hudson presented the case. Aaron and Dawn Carey were sworn in and testified requesting a special use exception to operate a day care facility; that they operate a small day care facility; that they want to increase the number of children to 14; that the hours of operation are Monday through Friday, from 6:00 a.m. to 10:00 p.m.; and that there will be no structural changes to the property.

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 special use exception be **granted since there will no substantial effect to the neighborhood and that the hours of operation will be Monday through Friday from 6:00 a.m. to 10:00 p.m. for 14-children**. Vote carried 5 – 0.

**Case No. 9460 – Douglas J. Ritter** – northeast of Road 298, southwest of Canal Drive, being part of Lots 1, 3, 5, and 7 within Short Hills Development.

A variance from the side yard setback requirement.

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Ms. Hudson presented the case. Douglas Ritter was sworn in and testified requesting a 5-foot variance from the required 10-foot side yard setback requirement for a proposed attached garage; that the proposed garage will measure 24' x 24'; that the lot is very narrow in size; that the garage would be permitted to be 5-foot from the property line if it was detached; and that the existing septic system prevents any other location for the garage.

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 5 – 0.

**Case No. 9461 – Scott R. Stevenson** – west of Road 206, 400 feet northeast of road 205, being Lot 1 within lands of Lynn A. McColley.

A variance from the side yard setback requirement.

Ms. Hudson presented the case. Scott R. Stevenson was sworn in and testified requesting a 10-foot variance from the required 15-foot side yard setback requirement for a proposed detached garage; that the proposed garage will measure 36' x 40'; that he wants to line the garage with his existing driveway; that the location will enable easy access to the garage; and that the neighbors have no objection to the application.

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

Motion by Mr. Workman, seconded by Mr. McCabe, and carried unanimously that the variance be **granted since it will not alter the character of the neighborhood**.  
Vote carried 5 – 0.

**Case No. 9462 – John Justice** – west of Road 410, 518 feet south of Road 421.

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

Ms. Hudson presented the case. Carrie and John Justice were sworn in and testified requesting a 3.74-foot variance from the required 150-foot lot width requirement for a parcel; that they want to purchase a 1-acre parcel from their grandparents; that they plan to build a dwelling on the property; that the property is L-shaped; that the property has road frontage on two roads; that the portion they want to subdivide has an existing

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146.26-foot of road frontage; and that they will be creating a rear property line to create the parcel.

Reese and Esther Dorey were sworn in and testified in opposition to the application and stated that they are concerned the dwelling will increase the water run off problem that already exists.

In rebuttal, Carrie Justice, stated that they are not building the property up with dirt; and that they have no objection to having the grade slope towards the front of the property to help prevent run off to the neighbor's property.

By a show of hands 2 parties appeared in support of the application.

By a show of hands 2 parties appeared in opposition to the application.

Motion by Mr. McCabe, seconded by Mr. Workman, and carried 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 3 – 1 –1.

**Case No. 9463 – Richard Zambanini** – east of Route One, north of Sea Del Drive, being Lot 18 within Sea Del Estates development.

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

Ms. Hudson presented the case. Louis Bacchio was sworn in and testified requesting a 1.1-foot variance from the required 10-foot side yard setback requirement, a 1.1-foot variance from the required 10-foot side yard setback requirement, and a 2.8-foot variance from the required 30-foot front yard setback requirement for an extension on an existing deck; that the Applicant wants to add a 3'x 42.8' addition to the existing deck; that the Applicant needs to increase the deck size to gain easier access for their handicapped granddaughter; and that the Applicant was not aware of the other encroachments until the survey was done.

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 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 5 – 0.

**Case No. 9464 – Karen A. Tisher** – south of Road 567, 256.10 feet south of Road 568.

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

Ms. Hudson presented the case. Karen A. Tisher was sworn in and testified requesting a 21.95-foot variance from the required 150-foot lot width requirement for a parcel; that she wants to subdivide the parcel for a family member; that she lives in the existing dwelling; and that they can create a combined driveway for the parcels.

Gerald Williams was sworn in and testified in opposition to the application and stated that he is concerned with the travel trailers on the lot; that it appears that someone lives in the travel trailers; and that he is concerned about the capacity of the septic system.

In rebuttal, Karen Tisher, stated that someone has stayed in the travel trailer periodically; that she plans to have the travel trailers removed from the property; and that she has septic engineers prepping the site for the proposed dwelling.

In rebuttal, Gerald Williams, stated that he will support the variance request if the travel trailers are removed from the site.

By a show of hands 1 party appeared in opposition to the application.

Motion by Mr. Workman, 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. McCabe, seconded by Mr. Workman, and carried unanimously that the variance be **granted with the stipulation that the travel trailers be removed within thirty (30) days and that the two parcels have a combined driveway**. Vote carried 5 – 0.

**Case No. 9465 – Altrenia Wright** – northeast of Route 5, 2,200 feet northwest of Road 306A.

A variance from the front yard setback requirement.

Ms. Hudson presented the case. Altrenia Wright was sworn in and testified requesting a 27-foot variance from the required 40-foot front yard setback requirement; that the dwelling was built in the 1940's; that she wants to build an addition to the dwelling; that the existing septic system is in the rear of the dwelling; that the new addition will still be behind an existing tree line and will not alter the character of the neighborhood; and that the neighbors are in support of the application.

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

**Case No. 9466 – Daniel J. Himmelfarb** – south of Road 277, northwest of Holly Court, being Lot 7, Block J, Section 2 within Angola By The Bay development.

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

Ms. Hudson presented the case. Daniel Himmelfarb was sworn in with Harold Dukes, Attorney, present on behalf of the application and testified requesting a 0.3-foot variance from the required 10-foot side yard setback requirement and a 13-foot variance from the required 20-foot rear yard setback requirement; that the encroachment was discovered when a survey was done for settlement; that a previous survey did not show the encroachments and they believe that survey was incorrect; that the deck was built 15-years ago; that the rear yard is adjacent to a common area in the development; and that the neighbors and Homeowner's Association is in support of the application.

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

**Case No. 9467 – Anthony G. Fasano, III** – east of Road 638, 923 feet south of Road 40, being Lot 16.

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

Ms. Hudson presented the case. Anthony Fasano, III was sworn in and testified requesting a special use exception to place a manufactured home on a medical hardship basis; that the unit will be used for his mother-in-law; that she is in poor health and does not drive; that the unit will be a 2006 and will measure 28'x 54'; and that it will not alter the character of the neighborhood.

By a show of hands 8 parties appeared in support of the application.

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The Board found that no parties appeared 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 two (2) years, since it will have no adverse effect to the neighborhood**. Vote carried 5 – 0.

**Case No. 9468 – Jon Toberman** – southwest of Route 54, northeast of Cleveland Avenue, being Lot 9, Block 4 within Cape Windsor development.

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

Ms. Hudson presented the case. Jon Toberman was sworn in and testified requesting a 5-foot variance from the required 10-foot side yard setback requirement and a 5-foot variance from the required 20-foot rear yard setback requirement for a proposed dwelling; that the unit will meet the standard 5-foot setback requirement and 15-foot setback requirement for Cape Windsor; that there are numerous variances in the development; and that the Homeowner's Association is in support of the application.

By a show of hands 1 party appeared in support of the application.

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

Motion by Mr. McCabe, seconded by Mr. Hudson, and carried unanimously that the variances be **granted since it will not alter the character of the neighborhood and since there have been numerous variances granted in the development**.  
Vote carried 5 – 0.

**Case No. 9469 – Gerald and Helen Foulz** – northeast of Road 23, southeast of Lingo Drive, being Unit 37 within Lingo Estates.

A variance from the side yard setback requirement and a variance from the buffer zone setback requirement.

Ms. Hudson presented the case. Colleen Mock was sworn in and testified requesting a 15-foot variance from the required 15-foot side yard setback requirement for an existing manufactured home and screen porch; that the encroachments were discovered when the Applicant planned to sell the property; that the manufactured home was placed incorrectly under the direction of the park manager; that the Applicant hired a contractor to obtain the building permit and build the screen porch; that the shed has been moved into compliance and the fence has been removed; that the Homeowner's Association is in support of the application; and that the unit was placed in 2000.

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Paul Santangelo was sworn in and testified in opposition to the application and stated that he is the President of the Homeowner's Association; that when the Homeowner's Association approved the application they did not realize the screen porch was in the common area; that they would like to see the porch removed as well; and that they have no objection to the manufactured home being in the common area.

In rebuttal, Colleen Mock, stated that the Homeowner's Association was given a copy of the same survey submitted with this application.

In rebuttal, Paul Santangelo, stated that at the time they were shown the survey they did not wish to upset the seller or prospective buyer; and that they were going to approach the new owner and suggest that the screen porch be made to match the dwelling or be removed.

By a show of hands 1 party appeared in support of the application.

By a show of hands 1 party appeared in opposition to the application.

Motion by Mr. McCabe, seconded by Mr. Workman, and carried unanimously that the case be **tabled until May 1, 2006**. Vote carried 5 – 0.

**Meeting Adjourned 8:34 p.m.**