



Board of Adjustment

Agendas & Minutes

MINUTES OF APRIL 2, 2007

The regular meeting of the Sussex County Board of Adjustment was held on Monday April 2, 2007, 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, Mrs. Melissa Thibodeau, Mr. Mike Bailey, Ms. Kelly Eaton, Mrs. Jennifer Norwood – Recording Secretary.

Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously to approve the Revised Agenda with the correction to remove Old Business Case No. 9730 – John H. Ferris. Vote carried 5 – 0.

Motion by Mr. Hudson, seconded by Mr. Workman, and carried unanimously to approve the Minutes of March 19, 2007 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.

PUBLIC HEARINGS

Case No. 9792 – Brian Dzon- east of Route 22, north of East Harbour Road, being Lot 224 within White House Beach Mobile Home Park.

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

Mrs. Thibodeau presented the case. Brian Dzon was sworn in and testified requesting a 3-foot variance from the required 5-foot side yard setback requirement, a 2.7-foot variance from the required 20-foot separation requirement between units in a mobile home park, and an 8-foot variance from the required 20-foot separation requirement between units in a mobile home park; that the existing deck received a variance 2 years ago; that he wants to enclose the deck; that the unit was placed in 1998; that he purchased the unit in 2000; and that he was not aware that the unit did not meet the separation requirement.

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 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. Hudson, seconded by Mr. Mills, and carried unanimously that the variances be **granted since it is unique in size and since it is the minimum variance to afford relief**. Vote carried 5 – 0.

Case No. 9793 – Helen M. McAllister- west of Route 5, ¼ mile south of Route One.

A special use exception for determination of existence for auto repair facility.

Mrs. Thibodeau presented the case. Donna M. Johnson was sworn in and testified requesting a special use exception for determination of existence for auto repair facility; that they have operated a business since 1963; that it has always been auto repair and a restaurant; and that owner wants to transfer ownership to family or friends.

By a show of hands 4 parties appeared in support of the application.

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

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the special use exception be **granted since the business has run consecutively prior to 1970**. Vote carried 5 – 0.

Case No. 9794 – Ronnie and Maxine Johnson- west of Route 62, 2,000 feet south of Road 469.

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

Mrs. Thibodeau presented the case. Ronnie Johnson was sworn in and testified requesting a 50-foot variance from the required 150-foot lot width requirement for a parcel and a 10,890-square foot variance from the required 32,670-square foot minimum lot size requirement; that he wants to subdivide his land for his daughters; that DNREC has approved the septic systems for the lots; that Del-DOT has approved a combined driveway; and that neighbors support the application.

Mr. Rickard stated that the office received 4 letters in support of the application.

The Board found that no parties appeared 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. 9795 – Donald and Bertha Zern- west of Woodland Circle, south of Woodland Court North, being Lot 1 and ½ Lot 2 within Angola By The Bay development.

A variance from the front yard setback requirement.

Mrs. Thibodeau presented the case. Donald Zern was sworn in and testified requesting a 7-foot variance from the required 30-foot front yard setback requirement for a proposed addition; that the addition will measure 14' x 20'; that he was granted a variance in 2004; that due to illness in the family construction never began; and that the Homeowners Association supports the application.

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

Case No. 9796 – Ocean Highway, LLC- southwest of Route One, 301 feet northwest of Dartmouth Drive, being Parcel B.

A variance from side yard setback requirement for a ground sign and a variance from the maximum square footage requirement for a sign.

Mrs. Thibodeau presented the case. Joseph Reed was sworn in and testified requesting a 10-foot variance from the required 20-foot side yard setback requirement for a ground sign and a 12 square foot variance from the required 150 square foot maximum size for a ground sign; that his request for a off premise sign was denied; that the businesses cannot be seen from Route One South; that the sign will not have an adverse impact to the neighborhood; that neighbors are in support of the application; and that he submitted pictures.

Mr. Rickard stated that the office received one letter in support of the application.

The Board found that no 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. 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. 9797 – Glenn G. Wilkerson- south of Road 302A, southeast corner of Avalon Drive and Brach Street, being Lot 25, Block C within Avalon Park development.

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

Mrs. Thibodeau presented the case. Glenn G. Wilkerson 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 10-foot rear yard setback requirement for a proposed pole barn; that the pole barn will measure 24' x 32'; that it will be used for collectibles; and that the existing shed will be torn down.

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

Case No. 9798 – Gordon and Wendy Kautz- south of Route 54, east of Keen-Wik road, being ½ of Lots 13 and 15, Block G within Keen-Wik Subdivision 1 development.

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

Mrs. Thibodeau presented the case. Gordon Kautz was sworn in and testified requesting a 5-foot variance from the required 30-foot front yard setback requirement, a 5-foot variance from the 10-foot side yard setback requirement and a 7-foot variance from the side yard setback requirement; that Keen-Wik requires 20-foot setback from the canal; that this creates a hardship to comply with County setback requirements; that he submitted a revised plan to request only a 5-foot variance from the front yard setback requirement; and that the homeowners association supports the revised application.

By a show of hands 2 parties 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. Workman, and carried unanimously that the variance be **granted since it will not alter the character of the neighborhood**. Vote carried 5 – 0.

Case No. 9799 – Robert Long- west of U.S. Route 113, south of Road 401.

A special use exception for a pond on less than five (5) acres.

Mrs. Thibodeau presented the case. Robert S. Long was sworn in and testified requesting a special use exception for a wildlife pond; that the property contains 4.5 acres; that the pond size will be 10,000 square feet; that it would be a seasonal pond; and that the owner has all other agency approvals.

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

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

Motion by Mr. Hudson, seconded by Mr. Mills, and carried unanimously that the variance be **granted since it will have no substantial effect to the neighborhood**. Vote carried 5 – 0.

Case No. 9800 – Joseph Moore, Jr. – west of Route 26, east of Road 413B.

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

Mrs. Thibodeau presented the case. Joseph Moore Jr. was sworn in and testified requesting a 4.3-foot variance from the required 5-foot side yard setback requirement, a 12.9-foot variance from the required 20-foot rear yard setback requirement, and a 4.9-foot variance from the required 15-foot side yard setback requirement; that the pump house was on the property when it was purchased in 1982; that the owner built the garage in 1986; that the property has been sold; and that a new owner owns the adjacent property.

By a show of hands 3 parties appeared in support of the application.

The Board found that no parties appeared 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. 9801 – Alfred D. Ciamarra- south of Road 277, south of Woodland Court South, being Lot 66 and ½ 65, Block H, Section 1 within Angola By The Bay development.

A variance from the rear yard setback requirement.

Mrs. Thibodeau presented the case. Alfred Ciamarra was sworn in and testified requesting a 10.3-foot variance from the required 20-foot rear yard setback requirement; that the owner plans to install a screen porch on the existing patio; that the patio measures 10' x 21'; that the rear yard is adjacent to the common area in the development; and that he purchased the property in 1989.

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. Workman, and carried unanimously that the variance be **granted since it will not alter the character of the neighborhood.**

Case No. 9802 – Natalie Coviello- northwest of Road 336, 1, 994 feet southwest of Road 335.

A special use exception from the provisions and requirements to retain a manufactured home on a parcel.

Mrs. Thibodeau presented the case. Natalie Coviello was sworn in and testified requesting a special use exception to retain an existing mobile home on less than 10 acres while their new home is being built; that the manufactured home will be removed once the dwelling is completed; and that the home will be done within one year.

By a show of hands 2 parties 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 special use exception be **granted for a period of one (1) year.** Vote carried 5 – 0.

Case No. 9803 – Towanda and Barry Thomas- north of Road 38, 140 feet east of Deer Park Trail, being Lot 64 within Kings Crossing development.

A special use exception to place an accessory structure without a main building.

Mrs. Thibodeau presented the case. Towanda and Barry Thomas were sworn in and testified requested a special use exception to place an accessory structure without a main building; that the pole building will measure 30' x 50'; that the pole building will be used for a meeting place; that the pole building will be located on Lot 63 & 64; and that owner had no objection to combining the lots.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the special use exception be **denied as unnecessary**. Vote carried 5 – 0.

Case No. 9804 – Fleet Construction Ltd.- southwest of Finch Lane, 817 feet west of Hudson Road, being Lot 6 within Pintail Pointe development.

A variance from the side yard setback requirement.

Mrs. Thibodeau presented the case. Zaheer Rattoo was sworn in and testified requesting a 0.52-foot variance from the required 15-foot side yard setback requirement; that the surveyor staked the property for the location of the dwelling; that the stakes were moved by mistake; and that the encroachment was discovered after the framing of the dwelling was complete.

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

Case No. 9805 – Carolyn Muse- southwest of Route One, corner of Ann Avenue and South Avenue, being Unit 10 within Ocean Dunes condominium.

A variance from the side yard setback requirement.

Mrs. Thibodeau presented the case. Carolyn Muse was sworn in and testified requesting a 3-foot variance from the required 15-foot side yard setback requirement; that the deck will measure 8' x 12'; that the proposed deck will allow for easier access to the property; and that the Homeowners Association supports 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. Workman, and carried unanimously that the variance be **granted since it will not alter the character of the neighborhood.**
Vote carried 5 – 0.

OLD BUSINESS

Case No. 9765 – Joseph and JoAnn Novotny- east of Sussex Road, being Lot 24
Section B within Indian River Acres development.

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

The Board discussed the case, which has been tabled since February 26, 2007.

Motion by Mr. McCabe, seconded by Mr. Workman, and carried unanimously that the variances be **granted with a stipulation that only one (1) kitchen be allowed.**
Vote carried 5 – 0.

Case No. 9769 – Michael Conover and William J. McCormick – north of Road 66,
4,000 feet west of Road 62, being Lot 8.

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

The Board discussed the case, which has been tabled since February 26, 2007.

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

Case No. 9780 – Paul Edward and Helen A. May- southeast of Bayshore Drive, north
of Carolina Avenue, being Lot 21, Block G, within Broadkilm Beach.

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

The Board discussed the case, which has been tabled since March 19, 2007.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be **tabled until the sale of the property is complete.** Vote carried 5 – 0.

Meeting adjourned 8:40 p.m.