



Board of Adjustment

Agendas & Minutes

MINUTES OF APRIL 3, 2006

The regular meeting of the Sussex County Board of Adjustment was held on Monday, April 3, 2006, at 7:00 p.m. in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 7:08 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. Hudson, and carried unanimously to approve the Revised Agenda as circulated. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of March 20, 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. 9440 – Ocean Atlantic Agency – east of Road 279 (Camp Arrowhead Road), 1.2 miles south of Road 277, being Lot 73 within Bayfront At Rehoboth development.

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

Ms. Hudson presented the case. Christine Strauss was sworn in and testified requesting a special use exception to place a manufactured home type structure as a sales office; that the unit will be needed for approximately 6-months; that the unit will be used for sales within the development; and that the site will have adequate parking and will be landscaped.

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 special use exception be **granted for a period of six (6) months with the stipulation that the site will be landscaped.** Vote carried 5 – 0.

Case No. 9441 – Richard and Gertrude Gray – south of Route 54, west of Wilson Avenue, being Lot 33, Block 3 within Cape Windsor development.

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

Minutes
April 3, 2006
Page 2

Ms. Hudson presented the case. Richard Gray was sworn in and testified requesting a 4.5-foot variance from the required 20-foot rear yard setback requirement, a 3.5-foot variance from the required 5-foot front yard setback requirement for a proposed manufactured home and a 4.5-foot variance from the required 5-foot side yard setback requirement for an existing shed; that he has owned the lot since 1970; that he was told the lot was 50' x 90'; that the survey used for Case No. 9230 on September 19, 2005 showed the lot to be 90-foot in length; that the surveyor made a mistake and his second survey showed the lot to be only 85-foot in length; that the shed will meet the required setback requirements; that the shed has currently been moved to allow the placement of the unit; and that he submitted pictures.

Don Miller was sworn in and testified in support of the application and stated that he is the surveyor; that a title search showed the lot to be 90-foot; that the tech assumed the lot would be the same size; and that the mistake was discovered after the unit was placed.

Joe Smith was sworn in and testified in opposition to the application and stated that he feels the Applicant should have known the size of the lot after 35-years; that he is concerned that the variance will cause parking on the street; that parking cars on the street creates a safety hazard; and that he submitted pictures.

Mr. Mills stated to the opposition that the Homeowner's Association supported the first variance in September 2005; that the Homeowner's Association apparently felt the lot was 90-foot in length; and that the Homeowner's Association should know the lot size.

In rebuttal, Richard Gray, stated that he has always been told the lot is 90-foot in length; and that a member of the Homeowner's Association recently discovered her lot to be only 88-foot in length.

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

By a show of hands 9 parties appeared in opposition to the application.

Ms. Hudson stated that the office received 1 letter in support of the application.

Ms. Hudson stated that the office received 86-letters 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.

Minutes
April 3, 2006
Page 3

Case No. 9442 – Deborah Brittingham – north of Sailor Road, southwest of Juniper Street, being Lots 9, 10, and part of 11, Block G within Woodland Heights development.

A variance from the minimum lot width and square footage requirements for a parcel.

Ms. Hudson presented the case. Deborah Brittingham was sworn in and testified requesting a 16-foot variance from the required 150-foot lot width requirement for a parcel, a 17,049-square-foot variance from the required 32,670-square-foot requirement for parcel C-2, and a 17,049-square-foot variance from the required 32,670-square-foot requirement for parcel C-1; that the lots have frontage on Juniper Street and Sailor Road; that the lots are currently long and narrow; that she wants to divide the lots in half; that the lots adjacent to this parcel were granted a similar variance; and that the variances will create a more desirable building lot.

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

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

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. 9443 – Deborah Brittingham – north of Sailor Road, southwest of Juniper Street, being Lots 14 and 15, Block G within Woodland Heights development.

A variance from the minimum lot width and square footage requirements for a parcel.

Ms. Hudson presented the case. Deborah Brittingham was sworn in and testified requesting a 98.17-foot variance from the required 150-foot lot width requirement for a

parcel, a 17,620-square-foot variance from the required 32,670-square-foot lot size requirement for Lot 15 and a 14,256-square-foot variance from the required 32,670-square-foot lot size requirement for Lot 14; that would like her testimony from Case No. 9442 to be incorporated in the record of this hearing; and that the proposed lots will have standard septic systems and will have no effect to the water table.

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

Minutes
April 3, 2006
Page 4

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. 9444 – Robert and Joanne Wooldridge – east of Road 246, Birch Road, being Lot 34 within Pine Valley 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.

Ms. Hudson presented the case. Robert Wooldridge was sworn in and testified requesting a 6-inch variance from the required 5-foot side yard setback requirement, a 15'6"-variance from the required 20-foot separation requirement between units for a shed and a 4-foot variance from the required 20-foot separation requirement between units for an existing deck; that he has demolished the existing unit; that he plans to keep the existing deck; that the shed on his neighbors lot has been on the lot for years; that the unit on the adjacent lot will be removed; and that the park 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. Hudson, 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 a unique lot and it will essentially improve the character of the neighborhood**. Vote carried 5 – 0.

Case No. 9445 – Irma J. Ball – north of Road 506, 610 feet southwest of Road 498.

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

No one appeared on behalf of the application.

Bryan Brown was sworn in and testified in opposition to the application and stated that he is a builder in the area and owns property nearby; that he feels they should invest the money that would be spent on a manufactured home and make improvements to the existing structure; that there are numerous cars on the lot; that there is a continuous yard sale on the property; and that he submitted pictures.

Minutes
April 3, 2006
Page 5

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

Case No. 9446 – Charles L. and Patricia Firestone – southwest of Road 266, 400 feet northeast of Road 266A, being Lot 4-A within Cape's Cove Mobile Home Park.

A variance from the separation requirement between units in a mobile home park.

Ms. Hudson presented the case. David Cress was sworn in and testified requesting a 1-foot variance from the required 20-foot separation requirement between units and a 1.6-foot variance from the required 20-foot separation requirement between units in a mobile home park; that a previous variance has been granted on this property; that a second survey showed a difference in size from the first survey used in the previous case; and that the unit will measure 24'x 48'.

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 and since it is the minimum variance to afford relief**. Vote carried 5 – 0.

Case No. 9447 – Joseph Carraro – south of Road 84, east of Lord Baltimore Lane, being Lot 8 within Lord Baltimore Landing development.

A variance from the side yard setback requirement.

Ms. Hudson presented the case. Joseph Carraro was sworn in and testified requesting a 1.6-foot variance from the required 10-foot side yard setback requirement for a proposed screen porch; that the proposed screen porch will measure 15'x 10'; that the porch will be adjacent to the existing deck; that the lot line is angled inward creating

the need for the variance; and that the Homeowner's Association has made no comment in reference to 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.

Minutes
April 3, 2006
Page 6

Case No. 9448 – Furniture & More – intersection of Dartmouth Drive and Route One.

A special use exception for a tent sale.

Ms. Hudson presented the case. Deborah Thompson was sworn in and testified requesting a special use exception for a tent sale; that they want to hold a tent sale 2-times a year; that the tent will be up for 10-days to provide ample time for set up and removal; that the tent will measure approximately 30'x 75'; that there will be adequate parking; and that the sales will be Memorial Day and Labor Day weekends.

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 for two (2) times a year for ten (10) days at a time for a period of five (5) years, since it will have no adverse effect to the neighborhood**.
Vote carried 5 – 0.

Case No. 9449 – Centex Homes – west of Road 348, 425 feet north of Preserve Lane.

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

Ms. Hudson presented the case. Josh Mastrangelo was sworn in with Jim Fuqua, Attorney, present on behalf of the application and testified requesting a special use exception to place a manufactured home type structures as a sales office; that the unit will measure 12'x 60'; that there will be adequate parking and landscaping; and that the use will be needed for approximately 1-year.

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

Case No. 9450 – Richard and Gloria West – south of Route 20, 3,600 feet west of Road 485.

A special use exception to connect two (2) manufactured homes to make one (1) unit.

Minutes
April 3, 2006
Page 7

Ms. Hudson presented the case. Gloria West was sworn in and testified requesting a special use exception to connect two (2) manufactured homes to make one (1) unit; that she want to connect her unit to her mother's unit; that the unit will be connected at the end to create an L-shaped unit; that the purpose of connecting the units is for her existing day care; that she agrees to have vinyl siding, A-frame roof, block foundation and 1-kitchen; that her family will be constructing the connection of the units; and that the work should be completed within six (6) months.

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. 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 special use exception be **granted with the stipulation that the units be connected side by side and not in an L-shaped and that there be vinyl siding, an A-frame roof, a block foundation and only one (1) kitchen and that the work be completed within one (1) year**. Vote carried 5 – 0.

Case No. 9451 – Edith I. Wescott – south of Route 20, north of Nanticoke Circle, being Lot 54 within Nanticoke Acres development.

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

Ms. Hudson presented the case. Shannon Carmean, Attorney, present on behalf of the application, and testified requesting a 12.5-foot variance from the required 40-foot front yard setback requirement for an existing dwelling; that the shed has been moved into compliance; that the encroachment was discovered at settlement; that the Applicant

had the addition built and was unaware of any encroachment; that a Certificate of Compliance was issued in 1999; that the lot is unique in size; that the encroachment was not created by the Applicant; that the variance will enable reasonable use of the property; that it will not alter the character of the neighborhood; and that it is the minimum variance to afford relief.

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

Minutes
April 3, 2006
Page 8

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. 9452 – George L. Dale, Jr. – north of Road 402, 1,942 feet west of U.S. Route 113.

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

Ms. Hudson presented the case. Edna Gibbs was sworn in and testified requesting a variance from the maximum age requirement for a manufactured home; that the unit is needed for an aging parent; that the year of the unit has not been determined; that the units they are looking at range from a 1995 to a 2000; that they have not purchased a unit yet; and that they can provide pictures and a year to the Board.

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 **left open to allow the Applicant to provide a year of the unit and pictures to the Board.** Vote carried 5 – 0.

Case No. 9453 – Bunting Construction Corporation – east of Windmill Road, ½ mile south of Route 26, within Windmill Woods development.

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

Ms. Hudson presented the case. Coleman Bunting was sworn in and testified requesting a special use exception to place a manufactured home type structure as a sales

office; that the unit will measure 12'x 52'; that the unit will be needed for approximately 9-months; and that there will be adequate parking and the site will be landscaped.

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 special use exception be **granted for a period of nine (9) months since it will have no adverse effect to the neighborhood**. Vote carried 5 – 0.

Case No. 9454 – Timothy J. Munro - south of Route 54, west of Wilson Avenue, being Lot 26, Block 3 within Cape Windsor development.

Minutes
April 3, 2006
Page 9

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

Ms. Hudson presented the case. Timothy Munro was sworn in and testified requesting a 5-foot variance from the required 10-foot side yard setback requirement and a 3-foot variance from the required 5-foot front yard setback requirement for a proposed manufactured home; that he wishes to withdraw his request for the front yard variance; that he will meet the front yard setback requirement; that he has owned the lot for 36-years; and that he has always known his lot size.

By a show of hands 7 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.

OLD BUSINESS

Case No. 9408 – Darren S. Jones – north of Road 540, .20 miles west of Road 538.

A variance from the front yard setback requirement.

The Board discussed the case which has been tabled since February 27, 2006.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variance be **granted and that a refund be sent to the Applicant for the application fee**. Vote carried 5 – 0.

Case No. 9425 – Matthew and Carol Savino – northeast of Road 331A (Possum Point Road), northwest of Road 331B, being Lot 4 plus extension within Possum Point development.

A variance from the front yard and side yard setback requirements and a variance from the maximum height requirement for a fence.

The Board discussed the case which has been tabled since March 20, 2006.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variances be **granted since it will not alter the character of the neighborhood and it will enable reasonable use of the property**. Vote carried 5 – 0.

Minutes
April 3, 2006
Page 10

Case No. 9435 – Alice C. Fagans and Ruth Ann Mattingly – south of Alabama Avenue, 300 feet east of North Bayshore Drive, being Lot 5, Block I.

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

The Board discussed the case which has been tabled since March 20, 2006.

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. 9438 – Jean Richardson – north of Route 9, east of Bristol Way, being Lot A-55 within Sussex East Mobile Home Park.

A variance from the separation requirement between units in a mobile home park.

The Board discussed the case which has been tabled since March 20, 2006.

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

Case No. 9439 – Jessica Ortiz-Rosales – intersection of Route 16 and Road 595.

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

The Board discussed the case which has been tabled since March 20, 2006.

Motion by Mr. Mills, 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.

Meeting Adjourned 9:19 p.m.