



Board of Adjustment
Agendas & Minutes

MINUTES OF AUGUST 21, 2006

The regular meeting of the Sussex County Board of Adjustment was held on Monday, August 21, 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, and Mr. Workman, with Mr. Berl – Assistant County Attorney, Ms. Hudson – Secretary to the Board, Mrs. Thibodeau – Zoning Inspector, and Mrs. Isaacs, Zoning Inspector II as – Recording Secretary.

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

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously to approve the Minutes of August 7, 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. 9591 – Darryl Hudson – east of Route 30, 670 feet north of Kawan Drive.

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

Mrs. Thibodeau presented the case. Darryl Hudson was sworn in and testified requesting a 14.29-foot variance from the required 100-foot minimum lot width requirement for a parcel; that the Planning and Zoning Commission approved the subdivision of the parcel in June pending the Board of Adjustments decision; that he is subdividing the lot for his daughter; that a site evaluation was approved for the lot; and that the remaining parcel will be 11-acres.

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

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

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the variance be **granted since it will not alter the character of the neighborhood and the positioning of the lot makes it unique.** Vote carried 4 – 0.

Case No. 9592 – Dean Sherman – east of Route 5, 4,000 feet east of private lane.

A special use exception for determination of existence of a nonconforming borrow pit.

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Mrs. Thibodeau presented the case. Dean Sherman was sworn in and testified requesting a special use exception for determination of existence of a nonconforming borrow pit; that in May he wrote a letter to Shane Abbott explaining there has been a borrow pit on this property for many years; that the borrow pit is strictly used for his plumbing business; that the plumbing business always has a need for fine dirt; that Shane Abbott directed him to apply to the Board of Adjustment; that the parcel is 73-acres in size; that since 1970 they have taken material from the pit; that they have never sold dirt and only use the dirt for his plumbing business and some personal use; that he submitted a packet to the Board containing arials from the Farm Bureau and statements the pit has been used for over 40-years; that the use of the pit varies from time to time, but it has always been actively used; and that the pit is approximately 2-acres in size..

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 to take the case under advisement. Vote carried 4 – 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 since the Applicant's testimony was that the pit has never been inactive for a 2-year period.** Vote carried 4 – 0.

Case No. 9593 – WSFS – east of Route 24, 945 feet south of Route 5.

A variance for an additional wall sign.

Mrs. Thibodeau presented the case. Dale McAllister and Henry Gaskon were sworn in and testified requesting a variance for an additional wall sign; that the sign will measure 52.55-square-foot; that the wall area measures 1,133-square-foot; that the sign will be 4.68% of the wall; that the signage is similar to the Lewes WSFS Branch Bank; and that the sign will not alter the character of the neighborhood.

The Board members 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 variance be **granted since it is unique due the design of the bank and location**.
Vote carried 4 – 0.

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Case No. 9594 – Gerald Nocks – south of Road 331, northwest of 4th Street, being Lot 20, Block C within Riverview development.

A variance from the front yard setback requirement.

Mrs. Thibodeau presented the case. Gerald Nocks was sworn in and testified requesting a 13-foot variance from the required 30-foot front yard setback requirement for a deck and stairs; that he built the deck and stairs; that he obtained the building permit; that he has no intention of enclosing the deck; that the lot is relatively small; that there have been numerous variances granted in the development; and that the Board granted variances to subdivide the lots 4-years ago.

Mr. Mills advised the Applicant that if he going to continue building in this County he should ask for the variance prior to building.

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 case be taken under advisement. Vote carried 4 – 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 variance be **granted since it will not alter the character of the neighborhood**.
Vote 4 – 0.

Case No. 9595 – Gerald Nocks – south of Road 331, northwest of 4th Street, being Lot 22, Block C within Riverview development.

A variance from the front yard setback requirement.

Mrs. Thibodeau presented the case. Gerald Nocks were sworn in and testified requesting a 14-foot variance from the required 30-foot front yard setback requirement for a deck and stairs; that the testimony from Case No. 9594 can be applied to this case; and that he feels an error was made when the foundation was built.

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 4 – 0.

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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 variance be **granted since it will not alter the character of the neighborhood.** Vote carried 4 – 0.

Case No. 9596 – Anna C. Wade – south of Route 54, south of Grant Avenue, being Lot 30, Block 6 within Cape Windsor development.

A variance from the side yard setback requirement.

Mrs. Thibodeau presented the case. Linda Nielson and Deborah Rokicka were sworn in and testified requesting an 8-foot variance from the required 10-foot side yard setback requirement for air conditioning units and a 6-foot variance from the required 10-foot side yard setback requirement for a proposed attached garage; that the proposed garage will measure 23' x 24'; that a variance was granted on the dwelling in January 2006; and that they submitted pictures.

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 that since it is the last house on the street it will not effect anyone.** Vote carried 4 – 0.

Case No. 9597 – Richard L. and Juanita D. Hanson – east of Road 274, west of Wanoma Road, being Lot 92, Section II within The Meadows At The Villages of Old Landing development.

A variance from the side yard setback requirement.

Mrs. Thibodeau presented the case. Richard Hanson was sworn in and testified requesting a 4.8-foot variance from the required 5-foot side yard setback requirement for an open deck; that the deck was built 3-years ago; that he obtained the building permit and built the deck; that the Homeowner's Association supports the application; and that he submitted pictures.

Mrs. Thibodeau stated that the office received 2-letters in support of the application.

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

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Motion by Mr. Workman, seconded by Mr. McCabe, and carried unanimously that the case be taken under advisement. Vote carried 4 – 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 since it will not alter the character of the neighborhood.** Vote carried 4 – 0.

Case No. 9598 – Laura Beckett – northeast of Route 20, 574 feet northwest of Townsend's Road (Road 340).

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

Mrs. Thibodeau presented the case. Laura Beckett was sworn in and testified requesting a 25.12-foot variance from the required 150-foot minimum lot width requirement for a parcel; that she wants to sell the remaining 5.8534-acres; that the property line will run along the existing driveway; that the 2 buildings in the back of the property will be removed; and that her husband was originally taking care of this until his death in March.

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. McCabe, and carried unanimously that the variance be **granted since it is a unique lot; that there have similar variances granted in the area in the past, since it will not alter the character of the neighborhood; and since it is a minimum variance to afford relief.** Vote carried 4 – 0.

Case No. 9599 – John W. Morris and James E. Plum – north of Road 306A, north of Samantha Drive, being Lot-D4 within W. Harman Lands development.

A variance from the side yard setback requirement.

Mrs. Thibodeau presented the case. James Morris was sworn in and testified requesting a 1-foot variance from the required 15-foot side yard setback requirement for a dwelling; that he built the foundation for the dwelling; and that B&M Homes gave him the wrong setback requirement.

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.

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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 4 – 0.

Case No. 9600 – James D. Foster – northeast of Road 273, northwest of Eleanor Lee Lane (Wade’s Court), being Lot 17 within Canal Corkran Phase Two.

A variance from the side yard setback requirement and a variance from the walkway requirement around pool.

Mrs. Thibodeau presented the case. James Foster was sworn in and testified requesting a 2.7-foot variance from the required 10-foot side yard setback requirement for an inground swimming pool and a 3-foot variance from the required 3-foot walkway requirement around a pool; that the courtyard surrounds the pool; that the setbacks were not noted on the building permit in reference to the pool; 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. McCabe, and carried unanimously that the variances be **granted since it is necessary to enable reasonable use since the encroachment was not created by the Applicant; and since it will not alter the character of the neighborhood**. Vote carried 4 – 0.

Meeting Adjourned 8:16 p.m.