



## *Board of Adjustment*

### Agendas & Minutes

### **MINUTES OF AUGUST 7, 2006**

The regular meeting of the Sussex County Board of Adjustment was held on Monday, August 7, 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. Mills, seconded by Mr. McCabe, and carried unanimously to approved the Revised Agenda with the correction that Case No. 9580 – Ryan Homes has been withdrawn. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of July 24, 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. 9575 – David and Anne Allen** – northwest of Road 535, 54 feet east of Brown Street, being Lots 2, 3, and 4 within Charles G. Friedel Subdivision.

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

Ms. Hudson presented the case. Mark Allen was sworn in and testified requesting a 25-foot variance from the required 30-foot front yard setback requirement and a 10-foot variance from the required 15-foot side yard setback requirement for a proposed detached garage; that the garage will measure 28'x 40'; that his lot is considered a through lot due to Pine Street; that Pine Street is basically an alley; that there is very little traffic on this road; that DelDOT has no intention of maintaining Pine Street; that the proposed detached garage is not out of character with the neighborhood; that the proposed location of the garage is the best suited location for fire safety; and that he submitted pictures.

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

**Case No. 9576 – Erica Browning and Mark Wilkins** – southwest of Road 47, 490 feet northwest of Road 295.

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

Ms. Hudson presented the case. Erica Browning and Mark Wilkins was sworn in and testified requesting a variance from the maximum age requirement for a manufactured home; that the 1999 unit measures 28' x 70'; that the unit was used as an office for Colonial East; that the unit has never been lived in; that they were given an acre of land by her mother; that the unit will be placed on a block foundation; that the adjacent property owners are family members; that there are other manufactured homes in the area; and that they submitted pictures.

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. 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. 9577 – Jean Athan** – southeast of Road 17, .44 mile northeast of Road 365.

A special use exception for special events and a special use exception to retain a riding academy.

Ms. Hudson presented the case. Larry Fifer, Attorney, was present on behalf of the application, and testified requesting a special use exception for special events and a special use exception to retain a riding academy; that the special use exception granted by the Board for the riding academy expires in October; that there have been no changes to the academy since the approval; that the Applicant wants to hold fund raising events, lessons, educational seminars, and weddings; and that the parcel contains 37 acres.

Ms. Hudson stated that the office received 1 letter 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. Hudson, and carried unanimously that the special use exceptions be **granted for a period of five (5) years**. Vote carried 5 – 0.

**Case No. 9578 – S & E Gallo Family Limited Partnership** – west of Road 268, 205 feet south of Road 269.

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A variance for an additional ground sign.

Ms. Hudson presented the case. Andrew Ratner and Matt Phillips were sworn in and testified requesting a variance for an additional ground sign; that there are two new office buildings on the property; that the proposed sign will measure 8'x 10'; that there is room for up to 6-businesses in the complex; that they are unsure of the size of the existing sign; and that they submitted pictures.

Cynthia Zacherl was sworn in and testified in opposition to the application and stated that she owns the adjacent property; that she is concerned for the location and lighting on the proposed sign; and that she submitted pictures.

In rebuttal, Andrew Ratner, stated that the sign will have internal illumination; and that there will be no sign on Clay Road.

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

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variance be **granted since it meets the standards for granting a variance**.  
Vote carried 5 – 0.

**Case No. 9579 – Keith Properties** – southwest of Route 54, south of Water Walk Way, being Lot 23 within Fenwick Shoals development.

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

Ms. Hudson presented the case. Richard Keith 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 10'x 30'; that they currently use the unit for sales; that they want to move the unit to Phase II of the development; that they will not be using a model home; that the unit has new siding and the interior has been remodeled; that there is adequate parking and there will be landscaping; and that he submitted pictures.

Ms. Hudson stated that the office received 2 letters 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 two (2) years**. Vote carried 5 – 0.

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

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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.

Ms. Hudson presented the case. Emanuel Blavakis and Kim Diehl were sworn in and testified requesting a special use exception to replace an existing billboard, a 49-foot variance from the required 50-foot side yard setback requirement, a 13-foot variance from the required 25-foot front yard setback requirement, and a 600-square-foot variance from the 300-square-foot maximum allowable square footage for a billboard; that the proposed billboard will be a steel mono-pole structure; that the sign will measure 12’x 50’; that they want to place the proposed billboard in the same location as the existing billboard; that the billboard will be 40-foot in height; and that they have applied for a height variance that will be heard on September 11, 2006.

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. Hudson, and carried unanimously that the case be **left open until September 11, 2006**. Vote carried 5 – 0.

**Case No. 9582 – Steve Becker** – northeast of Road 274, northeast of C Street, being Lot C-6 within Rehoboth Bay 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. Steve Becker and Al Campbell were sworn in and testified requesting a 5-foot variance from the required 5-foot side yard setback requirement for a set of steps, a 2.6-foot variance from the required 20-foot separation requirement between units, a 1-foot variance from the required 20-foot separation requirement between units, and a 9-foot variance from the required 20-foot separation requirement between units in a mobile home park; that the unit was placed in February

2005; that the park manager staked out the placement of the unit; that the covered porch was issued a Certificate of Compliance; that the steps on the porch are encroaching; and that the park marked the lot lines for the Zoning Inspector.

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.

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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. 9583 – R. Scott and Jeannette Pauli** – northwest of Route 16, northeast of Beach Plum Drive, being Lot 2, Block A, Section 2 within North Shores development.

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

Ms. Hudson presented the case. Jim Riordan was sworn in and testified requesting an 8.5-foot variance from the required 10-foot side yard setback requirement and a 15-foot variance from the required 30-foot front yard setback requirement for a proposed dwelling; that he inherited the property from his father; that DNREC requires 40% of the rear yard for the septic system; that the dwelling will measure 30'x 40'; that the porches are cantilevered; and that the proposed dwelling will be 2-stories.

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

**Case No. 9584 – Delaware Early Childhood Center** – west of U.S. Route 13, 327 feet south of Road 481.

A special use exception for a child care center.

Ms. Hudson presented the case. Esther Graham and Reverend Glen Clouser were sworn in and testified requesting a special use exception for a child care center; that the center will be for a pre-school program for 4-year olds; that the center is funded through the Lake Forest School District; that the pre-school will operate 5-days a week for 4-hours each morning; that there will be 54-children; that the school schedule will follow

the Seaford School District calendar; and that the pre-school will be held in the 1<sup>st</sup> Church of Nazarene.

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

**Case No. 9585 – Geneth Anthony** – south of Road 224, north of Adams Circle, being Lot 85, Section III, within Cedar Creek Estates development.

A variance from the front yard setback requirement.

Ms. Hudson presented the case. Geneth Anthony and Mandy O'Donnell were sworn in and testified requesting a 10-foot variance from the required 30-foot front yard setback requirement for an existing dwelling; that they had a survey done and stakes were set; that the stakes were removed possibly by children in the neighborhood; that they had the surveyor come back out to the lot and set the stakes again; that the stakes were removed again and the property owner tried to relocate the stakes herself; that they proceeded with the construction unaware of the encroachment; and that they discovered the encroachment after construction was completed.

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. 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. Workman, seconded by Mr. McCabe, and carried unanimously that the variance be **granted since it is the minimum variance to afford relief**. Vote carried 5 – 0.

**Case No. 9586 – James Bailey** – northwest of Route 16, northwest of W. Virginia Avenue, being Lot 15, Section E within Broadkill Beach.

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

Ms. Hudson presented the case. James Bailey 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 an existing detached workshop; that the building measures 20' x 25'; that the wrong setbacks were given on his building permit; that the builder obtained the building permit; and that they were not aware of the encroachment until the building was completed.

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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. 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. 9587 – Robin Adkins, Jr. and Stephanie Ewell** – west of U.S. Route 13, south of Pine Ridge Drive, being Lot 16 within Pine Ridge 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. Robin Adkins was sworn in and testified requesting a 2-foot variance from the required 10-foot side yard setback requirement, an 8-foot variance from the required 10-foot side yard setback requirement for an manufactured home, a 1-foot variance from the required 10-foot side yard setback requirement for a deck, an 8-foot variance from the required 20-foot separation requirement between units from neighbor's shed, and a 6-foot variance from the required 20-foot separation requirement between units from the neighbor's unit; that he went to the manager of the mobile home park prior to purchasing the new unit; that the park manager said the new unit would meet all the requirements; that the mobile home company sent him to obtain the placement permit; that the park manager showed the mobile home company where to place the unit; and that the shed and deck on his lot were there when he purchased the first unit.

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 and that a letter be sent to the park manager**. Vote carried 5 – 0.

**Case No. 9588 – Ian Stuart Anderson** – east of Route One, 310 feet south of West Virginia Avenue, being Lot 8, Section D.

A variance from the front yard setback requirement.

Ms. Hudson presented the case. Ian Anderson was sworn in and testified requesting a 12-foot variance from the required 30-foot front yard setback requirement for a proposed open deck; that they want to build a deck on the front of their dwelling to

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create easier access in and out of the dwelling; that the dwelling was built in 1988; that the dwelling is on pilings; that they have no plans of enclosing the deck; that the deck would not be out of character of the neighborhood; and that he submitted pictures.

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.

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

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variance be **granted for an open deck only since it meets the standards for granting a variance**. Vote carried 5 – 0.

**Case No. 9589 – Edgar Wroten, Jr. and Christine Williams** – south of Road 566A, 1,515 feet east of Road 562.

A variance from the rear yard setback requirement.

Ms. Hudson presented the case. Christine Williams Wroten and Edgar Wroten, Jr. were sworn in and testified requesting a 0.7-foot variance from the required 20-foot rear yard setback requirement for an existing foundation; that they purchased the property 4-years ago; that they currently live in the manufactured home; that he pulled a string line to mark the property line; that an existing tree interferes with the rear yard line; that they also rotated the location of the foundation to enhance the view of the dwelling from the road; and that they did not realize the encroachment until the foundation 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. Workman, seconded by Mr. McCabe, and carried unanimously that the variance be **granted since it is the minimum variance to afford relief**.



Vote carried 5 – 0.

**Case No. 9590 – Mary H. Cordrey** – south of Road 253, north of McDonald Drive, being Lot 16 within Briarwood Manor development.

A variance from the side yard setback requirement.

Ms. Hudson presented the case. Mary Cordrey was sworn in and testified requesting a 3-foot variance from the required 15-foot side yard setback requirement for

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an existing attached carport; that she has owned the property for 30-years; that she always believed her side yard setback requirement was 10-foot; that she measured for a 10-foot setback requirement; that when she discovered it was a 15-foot setback requirement she applied for the variance; that the carport is completed; that the property line curves in at an odd angle which also creates the encroachment; and that her neighbor's support 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. Hudson, seconded by Mr. Workman, and carried unanimously that the variance be **granted since it will not alter the character of the neighborhood; and that it is necessary to enable reasonable use of the property; and since it is the minimum variance to afford relief.** Vote carried 5 – 0.

### **OLD BUSINESS**

**Case No. 9557 – Irma J. Ball** – north of Road 506 (Shockley Road), 610 feet southwest of Road 498 (Ellis Grove Road).

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

Ms. Hudson presented the case. Irma Ball was sworn in and stated that the gentleman in opposition to her case never contacted her after the first hearing; and that she had given him her phone number.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the special use exception be **granted since it will have no substantial effect to the neighborhood for a period of two (2) years.** Vote carried 5 – 0.

**Case No. 9564 – Ed and Lynn Lester** – north of Road 312, 1,080 feet east of Road 311, being Lot 1 within Riverdale Park.

A variance from the side yard setback requirement and a variance from the walkway requirement between a swimming pool and fence.

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

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Motion by Mr. Hudson, seconded by Mr. Workman, 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. 9565 – Sony Corporation of America** – southwest of Road 14, 1,050 feet southeast of Road 283.

A variance for an additional wall sign.

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

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variance be **granted**. Vote carried 5 – 0.

**Case No. 9569 – The Whayland Co., Inc.** – east of U.S. Route 13, north corner of Road 462.

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

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

Motion by Mr. Mills to deny failed due to lack of a second.

Motion by Mr. McCabe, seconded by Mr. Workman, and carried with four (4) votes that the variances be **granted since they will not alter the character of the neighborhood, and with the stipulation that the Planning & Zoning office advise the property owner of the other violations**. Vote carried 4 – 1.

**Case No. 9574 – Ron's Mobile Homes** – east of Road 274, south of Bay Drive, being Lot 42 within Rehoboth Bay 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.

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

Motion by Mr. Hudson, seconded by Mr. McCabe, 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.

**Meeting Adjourned 9:20 p.m.**