



Board of Adjustment
Agendas & Minutes

MINUTES OF DECEMBER 11, 2006

The regular meeting of the Sussex County Board of Adjustment was held on Monday, December 11, 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 Vice-Chairman McCabe presiding. The Board members present were: Mr. Ronald McCabe, Mr. John Mills, Mr. Brent Workman and Mr. Jeff Hudson, with Mr. Richard Berl – Assistant County Attorney, Mrs. Melissa Thibodeau – Secretary to the Board, Mr. Lawrence Lank – Planning & Zoning Director, and Mrs. Jennifer Norwood – Recording Secretary.

Motion by Mr. Mills, 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 November 27, 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. 9688 – Adrian Cannon – east of Road 497, 400 feet south of Route 24, being Lot A.

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

Mrs. Thibodeau presented the case. Adrian Cannon was sworn in and testified requesting a variance from the maximum age requirement for placement of a manufactured home; that the unit is a 1980 model; that she plans to completely remodel the interior and exterior of the unit; that the unit is currently on a lot in Maryland; that she has done similar work in the past; and that she will need approximately 6-months to complete the work.

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

Motion by Mr. Workman, seconded by Mr. Mills, and carried unanimously that the case be taken under advisement. Vote carried 4 – 0.

At the conclusion of the public hearings, the Vice-Chairman referred back to this case. Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variance be **granted with the stipulations that there will be an a-roof, block foundation, vinyl siding and windows and that the work be completed within one (1) year since it will not alter the character of the neighborhood.** Vote carried 4 – 0.

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Case No. 9689 – Donna and William Fleischauer, III – north of Route 9, northwest of Windward Drive, being Lot 20 within Sea Spray Village development.

A variance from the rear yard setback requirement.

Mrs. Thibodeau presented the case. Donna and William Fleischauer, III were sworn in and testified requesting a 10-foot variance from the required 20-foot rear yard setback requirement for a proposed addition; that their lot is D-shaped; that the dwelling was placed on the lot to accommodate the septic system; that they wish to extend their dining room; and that the proposed addition will measure 14' x 20'.

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 variance be **granted due to the uniqueness of the lot and since it will not alter the character of the neighborhood and that it is the minimum variance to afford relief.** Vote carried 4 – 0.

Case No. 9690 – Edward Prudenti, Sr. – west of Route 30, 450 feet north of Road 297.

A variance from the rear yard setback requirement.

Mrs. Thibodeau presented the case. Edward Prudenti, Sr. was sworn in and testified requesting a 6.7-foot variance from the required 20-foot rear yard setback requirement for an existing detached garage; that the garage has been on the lot for 25-years; that the garage measures 20' x 40'; that the encroachment was discovered on a survey done for settlement; and that the garage was on the property when he purchased the lot in 1986.

Kim Kersey was sworn in and testified in opposition to the application and stated that he is the adjacent property owner; and that his concern was how the variance would effect his setback requirements.

The Board members found that no parties appeared in support of the application.

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

Motion by Mr. Hudson, seconded by Mr. Mills, and carried unanimously that the variance be **granted since it was not created by the Applicant and since it will not alter the character of the neighborhood and since it is the minimum variance to afford relief**. Vote carried 4 – 0.

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Case No. 9691 – Mary Armond – north of Road 283, south of Maple Drive, being Lot 7, Block B within Sandy Brae development.

A variance from the front yard setback requirement.

Mrs. Thibodeau presented the case. William Schab, Attorney, present on behalf of the application, and testified requesting a 3.2-foot variance from the required 30-foot front yard setback requirement for an existing porch; that the dwelling and porch were built over 30-years ago; that the Certificate of Compliance was issued on the dwelling and the porch; that the encroachments went unnoticed in 1990 when the property was sold; that the encroachment was discovered by a survey done for settlement; that the Homeowner's Association has made no objection to the application; and that there is not adverse effect to the neighborhood.

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

Motion by Mr. Workman, seconded by Mr. Hudson, and carried unanimously that the variance be **granted since it is the minimum variance to afford relief**. Vote carried 4 – 0.

Case No. 9692 – David A. and Kathy M. Ritter – east of Route 24, north of Steele Drive, being Lot 10, Block B within Steele Land Development Corp.

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

Mrs. Thibodeau presented the case. William Schab, Attorney, was present on behalf of the application and testified requesting a 0.7-foot variance from the required 10-foot side yard setback requirement for an addition, a 1.8-foot variance from the required 5-foot side yard setback requirement for an existing detached garage, a 10.6-foot variance

from the required 30-foot front yard setback requirement and a 0.7-foot variance from the required 5-foot side yard setback requirement for an existing pump house; that the encroachments were discovered by a survey done for settlement; that the dwelling was built in 1982; that the detached garage was built in 1984; 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. Mills, seconded by Mr. Workman, and carried unanimously that the variances be **granted since it meets the standards for granting a variance**.

Vote carried 4 – 0.

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Case No. 9693 – Carrie E. and Paul W. Kercher, II – south of Road 302A, northeast of Empire Street, being Lot 13, Block E within Avalon Park development.

A variance from the front yard setback requirement.

Mrs. Thibodeau presented the case. William Schab, Attorney, was present on behalf of the application and testified requesting a 0.7-foot variance from the required 30-foot front yard setback requirement for an existing manufactured home; that the unit was placed in 1982; that a survey done in 2004 did not show an encroachment; that a block foundation was added and juts out past the unit; that the survey done in 2006 shows an encroachment due to the block foundation; and that there is no adverse effect to the neighborhood.

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 is the minimum variance to afford relief and since it will not alter the character of the neighborhood**. Vote carried 4 – 0.

Case No. 9694 – Steven W. Hammett – west of Road 258, north of North Lake Drive, being Lot 9 within Lazy Lake development.

A variance from the side yard setback requirement.

Mrs. Thibodeau presented the case. Steve Hammett was sworn in with William Schab, Attorney, present on behalf of the application and testified requesting a 0.3-foot variance from the required 10-foot side yard setback requirement for an existing porch; that one corner of the porch encroaches; that there is a difference between surveyors on

where the property lines should be; that there is a contract of sale pending the Board's decision; and that there is no objection from the neighbors.

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 variance be **granted since it meets the standards for granting a variance**.
Vote carried 4 – 0.

Case No. 9695 – Carol Ann Drevo and William R. Lucas, Jr. – north of Road 283, east of Pine Lane, being Lot 9, Block I within Sandy Brae development.

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A variance from the side yard setback requirement.

Mrs. Thibodeau presented the case. William Schab, Attorney, was present on behalf of the application and testified requesting a 0.6-foot variance from the required 10-foot side yard setback requirement for an existing dwelling; that the property was purchased in 1984; that the encroachment was discovered by a survey done for settlement; that the pending sale of the property was lost due to the discovery of the encroachment; that the property needs to be sold to settle an estate; and that there will be no adverse effect to 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. Hudson, and carried unanimously that the variance be **granted since it meets the standards for granting a variance**.
Vote carried 4 – 0.

Case No. 9696 – Vines Creek Investments, LLC – south of Route 26, 2,450 feet west of Road 343, being Lot 2.

A variance from the wetland buffer zone requirement.

Mrs. Thibodeau presented the case. Jason Ripken was sworn in with William Schab, Attorney, present on behalf of the application, and testified requesting a 40-foot variance from the required 50-foot setback requirement from a wetland buffer zone; that they purchased the property in 2003; that they subdivided the property; that the subdivision of the land created a 50-foot wetland buffer zone requirement; that they were unaware of this until they applied for the building permit; that they built the proposed dwelling on the opposite lot to meet all the required setback requirements; that the buffer

zone requirement makes the lot virtually impossible to build on; that the proposed dwelling will not encroach into the wetlands; and that there will be no adverse effect to the neighborhood.

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

Motion by Mr. Workman failed due to lack of a second.

Motion by Mr. Mills, seconded by Mr. Hudson, 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 Vice-Chairman referred back to this case. Motion by Mr. Hudson, Mr. Mills, and carried unanimously that the case be **tabled until January 8, 2007**. Vote carried 4 – 0.

Case No. 9697 – Charles and Diana Columna – south of Road 74, 4,200 feet northwest of Road 447, being Lot 4 within Pine Woods development.

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

Mrs. Thibodeau presented the case. Charles and Diana Columna were sworn in and testified requesting a special use exception to place a manufactured home on a medical hardship basis; that they have been granted a special use for the unit in 2002; that the special use exception expired August 2004; that her parents live in the unit; and that they now know to notify the office after two years to extend the use if necessary.

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 special use exception be **granted for a period of two (2) years since it will not adversely effect the neighborhood**. Vote carried 4 – 0.

Case No. 9698 – Hale Trailer Brake & Wheel, Inc. – east of U.S. Route 13, 2,572 feet south of Road 64.

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

Mrs. Thibodeau presented the case. Jeff Finney was sworn in and testified requesting a special use exception to place a manufactured home type structure as a sales office; that he plans to replace an existing sales office; that the existing unit has been on the lot since 1973; that the proposed unit will be centrally located; and that he was not aware the special use exception is only a temporary approval.

Mr. Lank read a letter of support of the application.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the special use exception be **granted for a period of five (5) years**. Vote carried 4 – 0.

Case No. 9699 – Columbus and Deborah Nacchia – northwest of Road 351, south of Dorothy Circle, being Lot 17, Block C within Denton Manor development.

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A variance from the front yard setback requirement.

Mrs. Thibodeau presented the case. Columbus and Deborah Nacchia were sworn in and testified requesting a 9.5-foot variance from the required 30-foot front yard setback requirement for an existing screen porch; that they obtained a building permit for the porch; that the screen porch was built on an existing deck; that the deck has been on the lot for approximately 4-years; that they will move the shed into compliance; and that there is no adverse effect to the neighborhood.

Mr. Lank stated that the office received 2 letters in opposition.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be taken under advisement. Vote carried 4 – 0.

At the conclusion of the public hearings, the Vice-Chairman referred back to this case. Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the case be **tabled until January 8, 2007**. Vote carried 4 – 0.

Case No. 9700 – Charles R. and Mary Beth Caldwell – west of Road 362, north of Mimosa Street, being Lot 7, Section 4, Block M within Shady Dell Park development.

A variance from the side yard setback requirement.

Mrs. Thibodeau presented the case. Charles and Mary Beth Caldwell were sworn in and testified requesting a 2.5-foot variance from the required 10-foot side yard setback requirement for a proposed manufactured home; that they want to replace an existing single-wide manufactured home with a double-wide; that the previous unit has been removed; that they plan to retire and live on the property; that the existing septic system

will not allow the unit to be placed elsewhere on the property; and that the neighbors support the application.

Fred Lumbert was sworn in and testified in support of the application and stated that he is a full time resident; that the proposed unit would improve the park; and that they are trying to upgrade the appearance of the park.

John Denhome was sworn in and testified in opposition of the application and stated that he owns Lots 3 and 5 on Mimosa Street; that he has an existing stockade fence on his property; that the Board approved a variance for the height of the fence; that the septic system will be obsolete once the County sewer is installed; and that he feels the unit will be too close to his property.

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In rebuttal, Charles Caldwell, stated that the fence offers plenty of privacy; that the proposed unit was designed to enhance their backyard; that they are not sure when the sewer will be available; and that he erected the shed and did not obtain building permits.

In rebuttal, John Denhome, stated that there are other double-wide units in the development; and that the units do not run with the width of property.

In rebuttal, Fred Lumbert, stated that there are several units placed on the lot in this direction; and that he believes these units meet the setback requirements.

Mr. Lank stated that the office received 5-letters in support of the application.

The Board found that 1 party appeared in opposition to the application.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be taken under advisement. Vote carried 4 – 0.

At the conclusion of the public hearings, the Vice-Chairman referred back to this case. Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be **tabled until January 8, 2007**. Vote carried 4 – 0.

Case No. 9701 – Wayne L. Hopper – south of Road 382, east of Willington Drive East, being Parcel B within Hampden Park development.

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

Mrs. Thibodeau presented the case. Wayne and Clayton Hopper were sworn in and testified requesting a special use exception to connect two (2) manufactured homes to make one (1) unit; that he needs additional living space to care for his father-in-law; that he has been on disability since 2002; that the two units will have a block foundation, vinyl siding and new windows; and that they 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. Hudson, and carried unanimously that the special use exception be **granted with the stipulations that the units have vinyl siding and an a-roof within one (1) year and that the block foundation be complete within two (2) years since there will be no adverse effect to the neighborhood.**

Vote carried 4 – 0.

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Case No. 9702 – Samaida Sprogell - east of Road 374, east of Whispering Lane, being Lot 101 within Hidden Acres II development.

A special use exception for a daycare center.

No one appeared on behalf of the application.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be **denied for lack of a record of support.** Vote carried 4 – 0.

OLD BUSINESS

Case No. 9673 – J & Y Parker Family L P – northeast of U.S. Route 113, southwest corner of Road 83.

A variance from the front yard setback requirement.

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

Motion by Mr. Hudson, seconded by Mr. Mills, and carried unanimously that the variance be **granted with the stipulation that the site plan be submitted to the Planning & Zoning Commission with all agency approvals.** Vote carried 4 – 0.

Case No. 9687 – Cingular Wireless – north of Walker Road (Road 260), 0.6 miles west of Hudson Road (Road 258).

A special use exception to erect a telecommunications tower.

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

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the special use exception be **granted since it will have no adverse effect to the neighborhood**. Vote carried 4 – 0.

OTHER BUSINESS

Case No. 9233 – Anthony Crivella – north of Route 54, 588 feet west of Dukes Avenue.

A special use exception to place a billboard and a variance from the maximum allowable height requirement for a billboard. Request for a rehearing.

Mr. Lank read a letter from the Applicant requesting a rehearing.

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Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the request for a rehearing be **granted and that the Applicant pay the filing fee**.
Vote carried 4 – 0.

Meeting Adjourned 9:45 p.m.