



Board of Adjustment
Agendas & Minutes

MINUTES OF DECEMBER 18, 2006

The regular meeting of the Sussex County Board of Adjustment was held on Monday, December 18, 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. Dale Callaway, Mr. Ronald McCabe, Mr. John Mills, Mr. Brent Workman and Mr. Jeff Hudson, with Mr. Richard Berl – Assistant County Attorney, Mrs. Melissa Thibodeou – Zoning Inspector, Mr. Norman Rickard, and Mrs. Jennifer Norwood – Recording Secretary.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously to approve the Revised Agenda with Case No. 9712 – John F. and Mary Mr. Griffin to be heard first. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of December 11, 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. 9703 – Peter P. Demarie – southeast of Route 26, 90 feet west of Route 17.

A special use exception for a billboard and a variance from the setback requirements.

Mrs. Thibodeau presented the case. Peter Demarie was sworn in and testified requesting a special use exception for a billboard and a 270-foot variance from the required 300-foot setback requirement for a billboard from a dwelling, a 270-foot variance from the required 300-foot setback requirement for a billboard from a dwelling, and a 40-foot variance from the required 50-foot side yard setback requirement for a billboard; that the property is zoned Commercial; that the property is only 90-foot wide; that there are numerous billboards in the area; that the billboard will be a steel monopole structure; and that the billboard will be two-sided and not exceed 300-square-foot on each side.

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 5 – 0.

At the conclusion of the public hearings, the Chairman referred back to this case. Motion by Mr. McCabe, seconded by Mr. Hudson, and carried unanimously that the special use exception and variances be **denied**. Vote carried 5 – 0.

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Case No. 9704 – Emerson William Jones – northwest of Road 526, 900 feet northeast of Road 525.

A variance from the front yard setback requirement.

Mrs. Thibodeau presented the case. Emerson William Jones was sworn in and testified requesting a 6.3-foot variance from the required 40-foot front yard setback requirement for an existing manufactured home; that the porch has been on the double-wide for 20-years; that he hired a contractor to take care of all the proper permits; that the Certificate of Compliance was issued; that the single-wide unit has been removed; and that the shed has been moved into compliance.

Dean Betts, Attorney, testified in opposition to the application and stated that there is a dispute with regards to ownership of the land; and that they want the record to reflect that all improvements would be removed if they can prove ownership.

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 with the stipulation that the variance is for the existing structure only and not for any future structures since it meets the standards for granting a variance**. Vote carried 5 – 0.

Case No. 9705 – Beazer Homes – west of Road 285, south of Reservoir Drive being Lot 212, Phase 1 within Ridings at Rehoboth development.

A variance from the front yard setback requirement.

Mrs. Thibodeau presented the case. Steve Ingall and Steven Rodeck were sworn in and testified requesting a 1.6-foot variance from the required 30-foot front yard setback requirement for a dwelling; that a survey was done to stake the location of the dwelling; that a second survey was done after construction began and the encroachment was discovered; that the construction on the dwelling was then stopped; that there is a

slight curve in the property line towards the dwelling; that they feel this slight curve created the encroachment; and that this is a new development and it will not alter the character of the neighborhood.

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 since it meets the standards for granting a variance.**

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Vote carried 5 – 0.

Case No. 9706 – Ocean Highway LLC – southwest of Route One, 301 feet northwest of Dartmouth Drive, being Parcel B.

A special use exception to place an off premise sign and a variance from the side yard setback requirement.

Mrs. Thibodeau presented the case. Joseph Reed was sworn in and testified requesting a special use exception to place an off-premise sign and a 10-foot variance from the required 20-foot side yard setback requirement; that the sign will be used by two new tenants on the adjacent property; that there is a Citizen's Bank directly in front of the two store fronts; that the sign is needed to attract business from Route One; that there are numerous signs in the area; and that the sign conforms with all DelDOT's requirements.

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. McCabe, seconded by Mr. Hudson, and carried unanimously that the special use exception and the variance be **tabled until January 22, 2007.**
Vote carried 5 – 0.

Case No. 9707 – Sharon and Chester Porches, Jr. – 1,200 feet southeast of Road 79, south of Porches Lane.

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

Mrs. Thibodeau presented the case. Sharon and Chester Porches, Jr. were sworn in and testified requesting a 30-foot variance from the required 30-foot front yard setback requirement and a 13-foot variance from the required 15-foot side yard setback requirement for a proposed dwelling; that the two existing dwellings and the detached garage will be removed; that the proposed location for the proposed dwelling is due to a downward slope on the property; that there is also a drainage ditch that runs along the property; that the easement is needed to allow access to the adjacent parcel; and that a variance was granted for the lot width.

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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**.
Vote carried 5 – 0.

Case No. 9708 – Allen’s Hatchery, Inc. – 5,500 feet east side of Route 561, .6 mile south of Road 554.

A special use exception for a feed mill.

Mrs. Thibodeau presented the case. Larry Enders, David Smith and Charles Allen, III were sworn in with Gene Byard, Attorney, present on behalf of the application, and testified requesting a special use exception for a feed mill; that the property is zoned HI-1; that the approval from this Board is the first step of many; that the proposed site is currently farmed; that the surrounding property is owned by the Applicant; that 40-acres is needed for the feed mill; that the existing wooded area will not be disturbed; that the proposed feed mill will have no effect on any waterway and or the wetlands on the property; that the Applicant currently has a feed mill in the Delmar area; that there is no significant impact to the community; that the noise and odor from the running of the feed mill are minimal; that dust is the only hazard and the feed mill is designed to comply with the State regulations and there will be public hearings in the future to address this issue; and that there has been a fueling station and maintenance department on the site for over 57-years.

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 special use exception be **granted since it will have no adverse effect to the community**. Vote carried 4 – 0, with Mr. Hudson abstaining.

Case No. 9709 – Joseph Paulinski – 310 feet south of Road 358, east of Pine Needle Road, being Lot 18, Section 1 within Pine Crest Terrace development.

A variance from the front yard setback requirement.

Mrs. Thibodeau presented the case. Joseph Paulinski was sworn in and testified requesting an 8-foot variance from the required 30-foot front yard setback requirement for proposed first and second floor decks; that the existing unit will be removed; that the

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proposed dwelling with have a first and second floor deck; and that shed will be moved into compliance.

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. 9710 – Shirley P. Fritz – southwest of Route 5, 489 feet north of Vera Lane.

A variance from the side yard setback requirement.

Mrs. Thibodeau presented the case. Irvin Moore was sworn in and testified requesting a 4.4-foot variance from the required 10-foot side yard setback requirement and a 2-foot variance from the required 10-foot side yard setback requirement for a proposed dwelling; that the property lines are angled; that they want to place the dwelling in line with the road; that family members own the adjacent properties; and that the property was subdivided over 30-years ago.

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

Case No. 9711 – James and Sherrie Jordan – south of Route 54, northeast of Bay Berry Road, being part of Lot 33, Block H within KeenWik Subdivision 3.

A variance from the front yard setback requirement.

Mrs. Thibodeau presented the case. James and Sherrie Jordan were sworn in and testified requesting a 5-foot variance from the required 30-foot front yard setback requirement for a proposed addition; that they plan to retire to the area and live here full time; that the Homeowner's Association supports the application; and that they cannot build to the rear of the property for it will obstruct the neighbor's view.

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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. 9712 – John F. and Nancy M. Griffin – east of Lake Drive, 468 feet south of Penn Street, being Lot 3 within Irene Carpenter Draper Lands.

A variance from the maximum height requirement.

Mrs. Thibodeau presented the case. John Griffin was sworn in and testified requesting a 1.8-foot variance from the required 42-foot maximum height requirement for a proposed addition; that he built the dwelling 8-years ago; that there is an open deck on the roof; that they want to enclose the deck for safety purposes and also to keep the birds from destroying the deck; that the room will be approximately 130-square-foot in size; that the Architecture Review Board approves the proposed addition; and that there are other dwellings in the area that have been granted variances for height.

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.

Case No. 9713 – Cape Henlopen School District – intersection of Kings Highway and Gills Neck Road.

A variance from the maximum height requirement.

No one appeared on behalf of the application.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the case be **denied due to lack of a record of support**. Vote carried 5 – 0.

Case No. 9714 – Don Newson – north of Road 331, east of Blueberry Avenue, being Lot B-1 within Burton Acres development.

A variance from the side yard setback requirement for a corner lot.

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Mrs. Thibodeau presented the case. Don Newson, II and Robert Gibbons were sworn in and testified requesting a 2.5-foot variance from the required 15-foot side yard setback requirement for an existing dwelling; that they built the dwelling following the development's restrictions; that they were unaware of the County's setback requirements; that the builder obtained the permit; that he has been a builder in the County for 12-years and has never had to appear before this Board; and that there were existing trees on the property the owner's did not want to remove.

Mrs. Thibodeau stated that the office received 1 letter 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 requirements for granting a variance**. Vote carried 5 – 0.

Case No. 9715 – Long Neck Mini Storage LLC – north of Route 22, .53 mile east of Road 298.

A special use exception to place a billboard and a variance from the side yard setback requirement.

Mrs. Thibodeau presented the case. Darlene Matthes was sworn in and testified requesting a special use exception to place a billboard and a 40-foot variance from the required 50-foot side yard setback requirement for a billboard; that the proposed billboard will be a steel mono-pole structure; that the billboard will measure 10' x 30' on each side; that the billboard will not advertise the business on the property; and that she 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 special use exception and variance be **granted since it will not alter the character of the neighborhood**. Vote carried 5 – 0.

Case No. 9716 – RC Carpet Outlet – east of Route 24, 1,160 feet south of Route 23.

A variance for additional wall signs.

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Mrs. Thibodeau presented the case. Darlene Matthes was sworn in and testified requesting a variance for two additional wall signs; that the Applicant wants the word flooring on the east and west side of the building; that the building is too close to property line to allow for a pylon sign; that the adjacent properties have removed trees making the building more visible from the highway; that the lettering for the sign will measure 4' x 17 ½'; that there will be no lighting on the letters; and that the surrounding area has become very commercial.

The Board members 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 **tabled until January 8, 2007**. Vote carried 5 – 0.

OLD BUSINESS

Case No. 9353 – Cingular Wireless, LLC – south of Road 78, 190 feet northwest of Road 490A.

A special use exception to place a telecommunications tower and a variance from the maximum height and lighting requirements.

The Board discussed the case which has been tabled since December 19, 2005.

Motion by Mr. Mills, seconded by Mr. Hudson, to approve the special use exception and grant the variance, with conditions that the tower not be disguised as a tree and that there be lighting at the half-way point of the tower and at the top of the tower. The motion failed by a vote of 3 – 2, based on a roll call with the members voting as follows:

Mr. McCabe	-	no
Mr. Workman	-	no
Mr. Mills	-	yes

Mr. Hudson - yes
Mr. Callaway - no

The application was denied.

Meeting Adjourned 9:35 p.m.