



## *Board of Adjustment*

### Agendas & Minutes

#### **MINUTES OF FEBRUARY 26, 2007**

The regular meeting of the Sussex County Board of Adjustment was held on Monday, February 26, 2007, 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, Mr. Norman Rickard and Mrs. Jennifer Norwood – Recording Secretary.

Motion by Mr. McCabe, seconded by Mr. Mills, 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 February 5, 2007 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. 9756 – Timothy J. Wilson** – northwest of Road 455B, south of Road 64.

A special use exception to build an accessory structure without a main building.

Mr. Rickard presented the case. Timothy Wilson was sworn in and testified requesting a special use exception to build an accessory structure without a main building; that he purchased the property at a Sheriff's Sale; that he subdivided the parcel; that he wants to sell the parcel and the proposed buyer wants to place a detached garage on the parcel; that the garage will be used for storage of his cars and a boat or two; that a survey done after the purchase of the property changed the original size of the property; and that the original size would have met the 1-acre requirement for an accessory structure.

Jerilyn Arnold was sworn in and testified in opposition to the application and stated that she owns the adjacent property; and that her main concern was for her existing well and if the vehicles would be stored outside of the garage.

In rebuttal, Timothy Wilson, stated that there would not be any cars stored outside of the garage; and that there will be no restoration done on the lot.

Motion by Mr. Mills, seconded by Mr. Hudson, 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 **denied since it does not meet the standards for granting a special use exception**. Vote carried 5 – 0.

**Case No. 9757 – Vera H. Meninger** – northwest of Road 290, 1,900 feet north of Road 280, being Lot A within F. H. Prettyman development.

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

Mr. Rickard presented the case. Vera Meninger was sworn in and testified requesting a special use exception to place a manufactured home on a medical hardship basis; that the proposed unit will measure 28' x 48'; that her sister and husband will live in the unit; and that she is aware that the special use exception is a temporary approval.

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

**Case No. 9758 – Barbara and Matthew Delaney** – southeast of Route 22, south of White Heron Road, being Lot 516 within Pot Nets Bayside Mobile Home Park.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Matthew Delaney was sworn in and testified requesting a 3-foot variance from the required 5-foot side yard setback requirement for an existing carport; that they obtained building permits to enclose the existing carport; that the carport has been on the lot for over 20-years; that the neighbor submitted a letter in support of the application; and that there have been no Certificate's of Compliances issued on this lot.

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 variance be **granted since it meets the standards for granting a variance and since there have been numerous variances granted in the mobile home park**.  
Vote carried 5 – 0.

**Case No. 9759 – Ronda Banning** – south of Road 544, 550 feet west of U.S. Route 13A.

A variance from the side yard setback requirement, a variance from the minimum square footage requirement for a parcel, and a variance from the minimum lot width requirement for a parcel.

Mr. Rickard presented the case. Ronda and Jeffrey Banning were sworn in with Tim Willard, Attorney, present on behalf of the application and testified requesting a 12,966-square-foot variance from the required 32,670-square-foot lot size requirement, a 0.35-foot variance from the required 15-foot side yard setback requirement and a 50.03-variance from the required 150-foot lot width requirement for Parcels A and B; that the Applicant's wish to subdivide the lot to build another dwelling; that they are currently upgrading the existing dwelling; that the proposed lots are in character with the neighborhood; that the existing dwelling will meet the required setback requirements; that this will be the minimum variance to afford relief; 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**. Vote carried 5 – 0.

**Case No. 9760 – James and Arlene Henry** – west of Road 357, being Lot 24 within Martin Cox Development.

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

Mr. Rickard presented the case. James Henry was sworn in and testified requesting a 5.3-foot variance from the required 25-foot front yard setback requirement for a covered porch and a 4-foot variance from the required 10-foot side yard setback requirement for a second level deck with stairs; that he called Planning & Zoning and asked for the setback requirements for his ramp and stairs and he was told the stairs could be 5-foot from the property line; that he obtained the building permit; that there are 5 or 6 dwellings in the area with similar porches; that the building permit showed the correct setback requirements; and that he has not discussed the application with his neighbor.

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**,

**since the lot is unique in size and since there have been other variances granted in the development.** Vote carried 5 – 0.

**Case No. 9761 – Nelson and Elizabeth Hood** – northeast of Road 298, being Lot 65 within Short Hills Development.

A variance from the side yard setback requirement.

Mr. Rickard presented the case. Nelson Hood was sworn in and testified requesting a 2-foot variance from the required 5-foot side yard setback requirement for a proposed deck; that they currently have a deck on the rear of the dwelling; that they want to extend the deck down the side of the dwelling and connect it the rear deck; and that they have no plans to enclose the deck.

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 variance be **granted since it is the minimum variance to afford relief, since it enables reasonable use of the property, and since it will not alter the character of the neighborhood.** Vote carried 5 – 0.

**Case No. 9762 – Jeff and Micki Rivest** – west of Dune Road, 150 feet east of Route One, being Lot 7, Block E within Middlesex Beach development.

A variance from the front yard setback requirement.

Mr. Rickard presented the case. Greg Hastings was sworn in and testified requesting a 5-foot variance from the required 30-foot front yard setback requirement for a proposed dwelling; that due to the very restrictive Homeowner's Association's setback requirements the dwelling will not meet the County's setback requirements; that there have been similar variance granted in the development; and that they submitted a survey.

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. 9763 – Pine Acres, Inc. T/A Leisure Point** – north of Route 22 within Leisure Point.

A variance from the maximum height requirement for an accessory structure in a campground.

Mr. Rickard presented the case. George Harrison, Jr. was sworn in and testified requesting a 32-foot variance from the required 10-foot maximum height requirement for an accessory structure in a campground; that the existing building is over 30-years old; that the proposed building will be a 2-story structure on pilings; that the building will be used as a recreation center and store for the campground; and that the proposed building will be within the same footprint as the existing building.

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 variance be **granted since it enables reasonable use of the property and since it will not alter the character of the neighborhood**. Vote carried 5 – 0.

**Case No. 9764 – Chandrapaul Mahadan** – north of Route 26, 1,320 feet east of Road 25 and Road 26.

A special use exception to retain a manufactured home for storage purposes.

Mr. Rickard presented the case. Chandrapaul Mahadan was sworn in and testified requesting a special use exception to retain a manufactured home for storage purposes; that he currently lives in the unit; that he wants to replace the unit with a new double-wide unit; and that they will remove the bath and kitchen facilities from the existing unit so that it can be used for storage.

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 stipulation that the bath and kitchen facilities be removed since it will not alter the character of the neighborhood**. Vote carried 5 – 0.

**Case No. 9765 – Joseph and JoAnn Novotny** – east of Sussex Road, being Lot 24, Section B within Indian River Acres development.

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

Mr. Rickard presented the case. JoAnn and Joseph Novotny were sworn in and testified requesting a 2.7-foot variance from the required 30-foot front yard setback requirement for a carport, a 12.7-foot variance from the required 15-foot side yard setback requirement, a 17-foot variance from the required 20-foot rear yard setback requirement and a 7.7-foot variance from the required 10-foot side yard setback requirement; that they purchased the property in March 2006; that they hired a contractor to replace the existing decking; that they later discovered the contractor did not obtain the proper building permits; that they only updated what was already existing on the property; that the encroachments were not discovered until settlement; that the builder is no longer in business; and that they submitted pictures.

Donald Bell was sworn in and testified in opposition to the application and stated that he is an adjacent property owner; that he asked the previous owners about building permits; that he feels the Applicant should have discovered these problems prior to purchasing the property; that the carport is being built on the septic system; and that he believes they have converted the dwelling into a 2-family residence.

In rebuttal, JoAnn and Joseph Novotny stated that their son lives on the lower level of the dwelling; that they live on the second level when they are visiting the property; and that there are two kitchens in the dwelling.

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 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. McCabe, and carried unanimously that the case be **tabled to allow the office staff to investigate and make a report on the kitchens and the carport being over the septic system.** Vote carried 5 – 0.

**Case No. 9766 – Scott and Elise Mumford** – west of Route 54, southwest of Bayberry Road, being Lot 44 within Keenwick Subdivision 3.

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

Mr. Rickard presented the case. Scott Mumford was sworn in and testified requesting a 5-foot variance from the required 30-foot front yard setback requirement and a 3-foot variance from the required 10-foot side yard setback requirement for a proposed dwelling; that the Building Plans Committee for Keenwick supports the application; that the Applicant submitted a letter which addressed the standards for granting his variance request; and that he submitted a letter and a survey.

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.

Mr. Rickard stated that the office received 1 letter in support of 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.

---

The Board recessed for 5-minutes.

---

**Case No. 9767 – Miranda & Hardt Contracting** – east of Route One, south of Road 361A.

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

Mr. Rickard presented the case. Tom Ford and Mark Hardt were sworn in and testified requesting a special use exception to place a manufactured home type structure as an office; that the proposed structures were approved in 2006; that existing buildings will need to be torn down; that the temporary structure is needed to allow the businesses to continue during construction of the new buildings; that the structure will be needed for approximately 2-years; and that there will be approximately 22-employees working from the structure.

By a show of hands 3 parties appeared in support of the application.

The Board members 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 three (3) years since it will have no substantial effect to the neighborhood**. Vote carried 5 – 0.

**Case No. 9768 – Pete Fazio and William Lofland** – west of Road 229B, 198 feet north of Road 227, being Parcel C.

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

Mr. Rickard presented the case. Pete Fazio was sworn in and testified requesting a 100-foot variance from the required 150-foot lot width requirement for a parcel; that the

Board granted this variance in November 2005; and that the purchase of the property fell through and the variance approval lapsed.

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 variance be **granted**. Vote carried 5 – 0.

**Case No. 9769 – Michael Conover and William J. McCormick** – north of Road 66, 4,000 feet west of Road 62, being Lot 8.

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

Mr. Rickard presented the case. Michael Conover was sworn in and testified requesting a 16-foot variance from the required 150-foot lot width requirement for a parcel; that the parcel is just shy of 2-acres; that the existing dwelling will meet all the required setback requirements; and that the need for the subdivision is to help friends from a foreclosure on their property.

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

The case was tabled by the Chairman due to lack of a motion.

### **OLD BUSINESS**

**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.

Mr. Rickard read a letter from the Applicant stating their wish to revise their application and that the Applicant was told he would need to re-apply.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the special use exception and variance be **denied since it is unnecessary**. Vote carried 5 – 0.

**Case No. 9730 – John H. Ferris** – intersection of Route 26 and Road 424.



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

Mr. Rickard stated to the Board that the 195-foot variance request is not needed, the Board needs only to consider the 50-foot variance and the 117-foot variance requests.

The case was tabled by the Chairman due to lack of a motion.

**Meeting Adjourned 9:25 p.m.**