



Board of Adjustment
Agendas & Minutes

MINUTES OF JANUARY 22, 2007

The regular meeting of the Sussex County Board of Adjustment was held on Monday, January 22, 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, Mrs. Melissa Thibodeau – Zoning Inspector, and Mrs. Jennifer Norwood – Recording Secretary.

Motion by Mr. McCabe, seconded by Mr. Hudson, and carried unanimously to approve the Revised Agenda with the Old Business items being discussed first. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that to approve the Minutes of December 18, 2006 and the Minutes of January 8, 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.

OLD BUSINESS

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.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the case be **tabled until February 5, 2007**. 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.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the case be **tabled until February 5, 2007**. Vote carried 5 – 0.

Case No. 9726 – Bestfield Homes, LLC – intersection of Road 206 and Route One.

A special use exception to place an off premise sign.

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Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the case be **tabled until February 5, 2007**. 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.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the case be **tabled until February 5, 2007**. Vote carried 5 – 0.

PUBLIC HEARINGS

Case No. 9731 – Violet Waters – south of Route 20, 182 feet west of Road 485.

A special use exception for a daycare center.

Mrs. Thibodeau presented the case. Violet Waters, Charles Burbage and Elmer Waters were sworn in and testified requesting a special use for a daycare center; that they plan to care for up to 150-children; that the hours of operation will be 24-hours a day 7-days a week; that the ages of the children will be 1-year old and up; that she currently operates a large family day care; that the proposed building will measure 50' x 100'; and that there is a great need for this type of service in the area.

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 since it will have no adverse effect to the neighborhood**. Vote carried 5 – 0.

Case No. 9732 – Guillermo Zeledon – south of Road 225A, 125 feet east of Road 38C.

A variance from the front yard setback requirement.

Mrs. Thibodeau presented the case. Dave Stevenson was sworn in and testified requesting a 13.4-foot variance from the required 40-foot front yard setback requirement for a porch; that he is the contractor for the project; that the dwelling is over 100-years old; that the previous porch was in poor shape; that the new porch extends 3-foot further into the setback than the previous porch; that the porch was made a little wider to accommodate furniture; and that he submitted pictures.

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

Case No. 9733 – K. William and Jennifer J. Scott – northeast of Road 357, southwest of Apple Court, being Lot 71 within Quillens Point development.

A variance from the front yard setback requirement for a through lot.

Mrs. Thibodeau presented the case. Ken William Scott was sworn in and testified requesting a 16-foot variance from the required 40-foot front yard setback requirement for a through lot for an inground pool; that the pool company was supposed to attend the hearing; that the pool company obtained the building permit; that when they went to obtain the Certificate of Compliance the encroachment was discovered; that the building permit did not have the correct setback requirements; that a temporary Certificate of Compliance was issued; and that he has contacted his neighbors and found there to be no objections to 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 variance be **granted since it will not alter the character of the neighborhood and that a letter be sent to the pool company from the Board's counsel**.
Vote carried 5 – 0.

Case No. 9734 – Ronald L. Hildebrand – south of Route 36, 185 feet east of Route One Bypass.

A special use exception to build an accessory structure without a main building and a variance from the side yard and rear yard setback requirements.

Mrs. Thibodeau presented the case. Ronald Hildebrand was sworn in and testified requesting a 5-foot variance from the required 15-foot side yard setback requirement and a 10-foot variance from the required 20-foot rear yard setback requirement for a proposed accessory structure; that the proposed structure will measure 40'x 60'; that there is a 15-

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foot easement on the adjacent property; that the property to the rear yard is a field; that he plans to build a dwelling on the property; that the building is needed to store materials during the construction of his dwelling; and that he plans to build the dwelling within the next 2-years.

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 and special use exception be **granted with the stipulation that the dwelling be completed within 2-years of the completion of the accessory structure since they meet the standards for granting a variance and special use exception.**

Vote carried 5 – 0.

Case No. 9735 – Bridgeville Rifle & Pistol Club, Ltd. – north of Road 545, 3,500 feet west of Road 594.

A variance from the front yard setback requirement.

Mrs. Thibodeau presented the case. Jeff Hager was sworn in and testified requesting a 24-foot variance from the required 40-foot front yard setback requirement; that they want to build a cover for the firing range; that a storm destroyed the previous cover in 1993; and that there is no effect to the neighborhood.

Randall Cash was sworn in and testified in opposition to the application and stated that he lives across the road from the range; that he was aware of the firing range when he purchased his property; that due to changes made on the property the range has become a nuisance; that he feels the cover will allow shooting in inclement weather; that the new building has increased the noise problem; that the gate for the fence has a beeping sound when opened; and that he is concerned for the safety due to the increased traffic on the road and for his property values.

Randy Groton was sworn in and testified in opposition to the application and stated that he has lived next to the range for 22-years; that he has built additions on his dwelling to reduce the noise of the range and traffic; that his daughter has health issues and requires 12 to 14 hours of sleep; and that they have moved her bedroom as far from the noise of the range as possible.

In rebuttal, Jeff Hager, stated that they are just replacing a cover that was there once before; that there will be no changes made to the firing range; that there is no shooting before 10:00 a.m.; that the beeper on the fence will be disconnected; that they

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have people shoot in inclement weather now without a cover; and that trees were removed to allow for parking.

By a show of hands 2 parties 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 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 variance be **granted since it enables reasonable use of the property, since it will not alter the character of the neighborhood, and that it is the minimum variance to afford relief**. Vote carried 5 – 0.

Case No. 9736 – Timothy Fluharty – east of Road 543, being Lot 5.

A variance from the minimum lot size requirement for placement of a manufactured home.

Mrs. Thibodeau presented the case. Timothy Fluharty and Allison Granville were sworn in and testified requesting a 4,019-square-foot variance from the required 32,670-square-foot minimum lot size requirement for placement of a manufactured home; that in June 2006 his existing dwelling was destroyed by a flood; that he had only lived in the dwelling for 4-days; that since the flood he has been living in Elkton, MD; that he recently moved to the area to be near his son; that FEMA and DEMA advised him that there was no funding to help after the flood; that SBA was contacted and through them he was approved for a loan for the manufactured home; that he still has a mortgage on the dwelling that was destroyed by flood; that when he purchased the property they were told it was 1-acre; that Manufactured Housing Concepts obtained the permit and discovered the lot was less than $\frac{3}{4}$ -acres in size; and that an emergency permit was issued so the unit could be placed on the 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**.
Vote carried 5 – 0.

Case No. 9737 – Bill Brown – east of Route One, east of Bunting Avenue, being Lot 2 within Beach Landing Condominium.

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A variance from the side yard setback requirement.

Mrs. Thibodeau presented the case. Bill Brown was sworn in and testified requesting a 10-foot variance from the required 10-foot side yard setback requirement; that he is in the process of constructing a new roof and siding; that the mansard over the garage was extended to cover the walkway; and that the neighbor's 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. McCabe, seconded by Mr. Workman, and carried unanimously that the variance be **granted**. Vote carried 5 – 0.

Case No. 9738 – Ronald S. Hart – north of Route 18, 625 feet west of railroad and Road 546.

A variance from the rear yard setback requirement for a poultry manure shed.

Mrs. Thibodeau presented the case. Ronald Hart was sworn in and testified requesting a 30-foot front yard variance from the required 50-foot rear yard setback requirement for a poultry manure shed; that he is starting a new poultry farm with 3-poultry houses; that the poultry company requires a 50-foot buffer between the manure shed and the poultry house; and that there are no residences near the structure.

Wallace Hart and Weldon Arnett were sworn in and testified in opposition to the application and stated that they are concerned the manure will contaminate their water supply; that they are concerned about their property values; and that after seeing the proposed location of the manure shed they have no objection.

The Board found that 2 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 will enable reasonable use of the property and since it will not alter the character of the neighborhood**. Vote carried 5 – 0.

Case No. 9739 – Peter and Betty Jane Triolo – south of Road 395, east of Bayview East, being Lot 10, Block 3 within Bayview Estates development.

A variance from the side yard setback requirement.

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Mrs. Thibodeau presented the case. John Sadnash was sworn in with Chris Holman, Attorney, was present on behalf of the application and testified requesting a 0.9-foot variance from the required 10-foot side yard setback requirement for an existing dwelling; that the survey done for settlement showed the encroachment; that the property was purchased in 1984 by the Applicant; that the dwelling was built in 1983; and that it would create an unnecessary hardship to move the dwelling into compliance.

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. 9740 – James and Virginia Baum – intersection of Green Street and Road 39A, being Lot 46, Block G within Joseph D. Short 1st Addition.

A variance from the front yard setback requirement.

Mrs. Thibodeau presented the case. Bryan Elliott was sworn in and testified requesting a 10-foot variance from the required 30-foot front yard setback requirement for a proposed dwelling; that the Applicant's want to place the dwelling towards the front of the lot; that this location will allow the septic system to be installed in the rear yard; and that the dwelling is a Beracah Home.

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**. Vote carried 5 – 0.

OTHER BUSINESS

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.

Mrs. Thibodeau 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 5 – 0.

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

A variance from the maximum height requirement.

Mrs. Thibodeau read a letter from the Applicant requesting a rehearing.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the request for a rehearing be **granted and that the Applicant pay the filing fee.**
Vote carried 5 – 0.

Case No. 9204 – Old Bay Road, LLC and Lawrence A. Brown – intersection of Route One and Road 272B (Old County Road).

A variance from the front yard setback requirement for a through lot and a variance from the minimum required parking spaces.

Mrs. Thibodeau read a letter from the Applicant requesting a time extension.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the request for a time extension be **denied and that the Applicant be permitted to re-apply.** Vote carried 5 – 0.

Case No. 9318 – Mary Teresa Morrison – southwest of Road 275A, north of Strawberry Way, being Lot 15 within Breezewood development.

A variance from the side yard setback requirement.

Mrs. Thibodeau read a letter from the Applicant requesting a time extension.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the request for a time extension be **granted for a period of six (6) months**.
Vote carried 5 – 0.

Case No. 9374 – Lincoln Plaza LLC – intersection of Road 207 and U.S. Route 113.

A special use exception to replace an existing billboard and a variance from the maximum size and height requirements.

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Mrs. Thibodeau read a letter from the Applicant requesting a time extension.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the request for a time extension be **granted for a period of one (1) year**. Vote carried 5 – 0.

Meeting Adjourned 8:50 p.m.