



Board of Adjustment
Agendas & Minutes

MINUTES OF JANUARY 9, 2006

The regular meeting of the Sussex County Board of Adjustment was held on Monday, January 9, 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. 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 December 19, 2005 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. 9354 – Robert R. Kilby, II – intersection of Road 20A and Road 486A.

A variance from the minimum square footage requirement for a parcel.

Ms. Hudson presented the case. Robert Kilby, II was sworn in and testified requesting a .06-of an acre variance from the required 32,670-square-foot requirement for a parcel; that he wants to sell the land as 2-parcels; that this will allow for 2-single-family dwellings to be built on this property; that the reason for the request is to better help his financial situation; and that there is 440-foot of road frontage.

John Olliver was sworn in and testified in opposition to the application and stated that he is concerned with the effect two dwellings will have to the intersection; that any proposed dwelling will hinder the view of the intersection; and that he is opposed to the request.

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. Hudson, 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. 9355 – Natalie J. Alexander – north of Road 287, 1,345 feet east of Road 285.

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A variance from the side yard setback requirement.

Ms. Hudson presented the case. Natalie Alexander was sworn in and testified requesting a 1.4-foot variance from the required 5-foot side yard setback requirement for an existing shed; that the shed has been on the lot for 12-years; that they were not aware the shed did not comply with the setback requirements; that she had a survey done recently and the encroachment was discovered; that she has looked into having the shed moved into compliance, however due to the age of the shed and wood floor the shed would fall apart; and that she submitted pictures and has since obtained the building permit for the shed.

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. Mills, and carried unanimously that the variance be **granted for the life of this shed only**. Vote carried 5 – 0.

Case No. 9356 – William C. Szymanski – west of Route One, north of Dodd Avenue, being Lot G-22 within Sea Air Mobile City 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. William Szymanski was sworn in and testified requesting a 3-foot variance from the required 5-foot side yard setback requirement and a 15-foot variance from the required 20-foot separation requirement between units in a mobile home park; that he purchased the unit for his handicapped brother; that his brother needs the ramp to enter and exit his home; that he obtained the building permit; that the park gave him permission to build the deck with the ramp; that he did not see the setback requirements on his building permit application; that he thought his lot line was even with his driveway; that the unit is 20-foot from the neighbor's unit; that he also needed to

build the ramp on the side to maintain parking on the lot; and that he submitted pictures and a letter from the park.

Carl Valuscio was sworn in and testified in support of the application and stated that the opposition have numerous violations on their lots; that the opposition has not obtained building permits or variances for improvements on their lots; that there are condos that are placed closer together than these units; that the decks are the only structure that encroaches; that there have been numerous variances granted in the park; and that he feels the damage has already been done and new owners should not be punished.

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Kimberly Lear was sworn in and testified in opposition to the application and stated that she lives on the adjacent lot; that she was told by the park her boundary lines went from pole to pole; that the Applicant's deck is on her lot; that she was not aware a building permit was needed to relocate her deck onto her lot; that there is only 16.5-foot between her unit and the Applicant's unit; and that her deck is on the Applicant's lot.

Jeanie Sisk was sworn in and testified in opposition to the application and stated that the unit was placed under false pretenses; that there was a fire recently in the park and the only reason the fire did not spread was because the units were 20-foot apart; that she is opposed to anymore variances being issued in the park; that she feels the setback requirement needs to be changed to 10-foot from all lot lines; and that she submitted a plot plan and pictures.

In rebuttal, Donna Szymanski, was sworn in and testified in support of the application and stated that the unit was already placed on the lot when they purchased the unit.

By a show of hands 5, parties appeared in support of the application.

By a show of hands 6 parties appeared in opposition to the application.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the case be **tabled until the property lines are determined by a surveyor within 90-days**.
Vote carried 5 – 0.

Case No. 9357 – Laurie and Gregory Riley, III – southwest of Road 302A, southwest of Pine Lake Drive, being Lot B-14 within Pine Lake development.

A variance from the side yard setback requirement.

Ms. Hudson presented the case. Gregory and Laurie Riley were sworn in and testified requesting a 5.8-foot variance from the required 15-foot side yard setback

requirement; that they purchased the property to place affordable housing on the property; that the surveyor made an error when surveying the lot; that the surveyor had the foundation crew move the location over approximately 10-foot; that the foundation would have been on his neighbor's property had he not moved the original location; that they removed some of the neighbor's trees; that they have since reimbursed the neighbor for the trees; that the foundation is completed; that they stopped work on the project once the encroachment was discovered; that the surveying company did not wish to attend the public hearing; and that they submitted copies of the survey and deed.

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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 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. Hudson, and carried unanimously that the variance be **granted since it meets the standards for granting a variance and with a stern letter sent to the surveyor**. Vote carried 5 – 0.

Case No. 9358 – Dorothy Wheatley – south of Road 244, 900 feet east of Road 246.

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

Ms. Hudson presented the case. Dorothy Wheatley was sworn in and testified requesting a special use exception to place a manufactured home on a medical hardship basis; that she will live in the unit; that she currently lives with her mother on the property; that she has not yet purchased a manufactured home; that she is not sure where the unit will be placed and that she would like to place it to the rear of her mother's unit; that her son has sometimes stayed in a camper on the property; that the camper is to be sold and she will see that no one stays in the camper; that she was not aware that it was against the law to occupy a camper; and that there is only 1-unit on the property at this time.

The Board members 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 case be **left open for the Applicant to provide an approximate age and size of**

proposed unit, a drawing to show what is on the property, and to show evidence that no one is staying in the camper. Vote carried 5 – 0.

Case No. 9359 – Leonard R. Watson – south of Road 500, .75 miles west of Road 493.

A special use exception from the provisions and requirements to retain a manufactured home on a parcel.

Ms. Hudson presented the case. Leonard Watson was sworn in and testified requesting a special use exception from the provisions and requirements to retain a

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manufactured home on a parcel; that he has subdivided the property into 5-lots; that the manufactured home has been on the lot for 8-years; that his daughter lives in the unit; that the lot will be conveyed to his daughter; and that there was a single-wide unit on the property before.

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 special use exception be **granted since it will not alter the character of the neighborhood.** Vote carried 5 – 0.

Case No. 9360 – Franklin Dean Esham – southeast of Road 350, northeast of Pine Street, being Lot 5-A, Block A within Banks Acres development.

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

Ms. Hudson presented the case. Dean Esham was sworn in and testified requesting a 0.2-foot variance from the required 40-foot front yard setback requirement and a 4.7-foot variance from the required 10-foot side yard setback requirement for an existing manufactured home; that he purchased the lot 19-years ago; that he replaced the existing unit; that he received a notice of violation for not obtaining a placement permit; that the unit can be moved to comply with the front yard setback requirement; that there is an existing electrical box which prevents the unit from complying with the side yard setback requirement; and that the neighbors have no objection to the application.

Darlene Cordeaux were sworn in and testified in opposition to the application and stated that the Applicant is a Delaware State Trooper and should know the law; that the unit was moved to the lot in the middle of the night; and that he has allowed tenants to move into the unit without a Certificate of Compliance being issued.

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

Motion by Mr. McCabe, seconded by Mr. Workman, and carried unanimously that the variance be **granted for the 4.7-foot side yard only, that the unit will be moved into compliance from the front yard setback requirement, and since it will not alter the character of the neighborhood.** Vote carried 5 – 0.

Case No. 9361 – Kevin and Elizabeth Cooney – south of Route 54, east of Keen Wik Road, being Lot 25 within Keen Wik Subdivision 1.

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A variance from the side yard setback requirement.

Ms. Hudson presented the case. Kevin and Elizabeth Cooney were sworn in and testified requesting a 2-foot variance from the required 10-foot side yard setback requirement for an existing second floor deck; that they added a second floor addition and deck to their existing dwelling; that the second floor deck mirrors the first floor deck; that the adjacent neighbor has no objection to the application; that they have owned the property for 8-years; and that they will provide the name and address of the builder to the Board.

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 since it will not alter the character of the neighborhood and with a letter sent to the builder.** Vote carried 5 – 0.

The Board recessed for 10-minutes.

Case No. 9362 – John Gugliotta – south of Route 5, west of River Run, being Lot 260 within Keenwick Sound Phase I development.

A variance from the side yard setback requirement.

Ms. Hudson presented the case. John Gugliotta was sworn in and testified requesting a 5.8-foot variance from the required 10-foot side yard setback requirement for a proposed attached shed; that the proposed shed will measure 6'x 14'; that by placing the shed to the side of the property it won't take away from his view or his neighbors; that the existing plastic shed will be removed; that the shed will have the same siding and shingles as the dwelling; that his neighbors are in support of the application; and that the Homeowner's Association is waiting for the Board's decision.

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

Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously that the variance be **granted for a 6-foot variance for an attached shed**. Vote carried 5 – 0.

Case No. 9363 – Susan S. Williams – west of Silver Lake Drive, north of Blackstone Avenue, being Lot 3 within Silver Lake Manor development.

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

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Ms. Hudson presented the case. Susan Williams was sworn in and testified requesting a 14-foot variance from the required 30-foot front yard setback requirement for a through lot; that she wants to build an additional bedroom on the dwelling; that the addition will replace an existing deck; that they purchased the property 6-years ago; and that the dwelling was built in 1960.

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.

Case No. 9364 – Anthony and Darlene Ferrara – north of Route 54, west of Canvasback Road, being Lot 98, Block D within Swann Keys development.

A variance from the side yard setback requirement.

Ms. Hudson presented the case. Anthony Ferrara was sworn in and testified requesting a 10-foot variance from the required 10-foot side yard setback requirement and a 3.1-foot variance from the required 10-foot side yard setback requirement for an existing deck; that he built the dwelling and deck; that he did not realize the setback requirements were on his building permit; that the deck is adjacent to the bulkhead; and that the Homeowner's Association has no objection to the application.

The Board members 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. 9365 – John and Anna Lecates – southwest of Road 280B, 315 feet north of Quail Drive.

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

Ms. Hudson presented the case. Anna Lecates and Melissa Brozefsky were sworn in and testified requesting a 50-foot variance from the required 150-foot lot width requirement for a parcel; that she has purchased Lot 5 and Lot 6; that two of her grandchildren live on the parcels; that she wants to subdivide for her third grandchild;

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and that there is a dwelling on the property which prevents them from meeting the 150-foot lot width requirement.

Mr. Mills suggested that the Applicant split the lot at 150-foot for each and then have the property line go at an angle that would allow the dwelling to meet the setback requirements.

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. Mills, seconded by Mr. Hudson, and carried unanimously that the variance be **denied as unnecessary and since it did not meet the standards for granting a variance**. Vote carried 5 – 0.

Case No. 9366 – Michael and Elaine Herholdt – west of Road 42, 1,665 feet south of Road 635.

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

Ms. Hudson presented the case. Michael Herholdt and John Herholdt were sworn in and testified requesting a 100-foot variance from the required 150-foot lot width requirement for a parcel; that the parcel is 10-acres in size; that they want to move the family business to the property; that they plan to have a Change of Zoning hearing with the Planning and Zoning Commission for that portion of the parcel; that the remaining parcel will remain farmland; that they have no intention of selling the property; and that the property is a portion of the family farm.

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.

Case No. 9367 – Arthur and Mary Mohr – west of Road 362, south of Birch Street, being Lot 35, Block G, Section 4 within Shady Dell Park development.

A variance from the front yard setback requirement.

Ms. Hudson presented the case. Arthur and Mary Mohr were sworn in and testified requesting a 3.1-foot variance from the required 30-foot front yard setback

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requirement for an existing manufactured home; that they purchased a used manufactured home; that the contractor obtained the permit and placed the unit; that they believe that he placed the unit in line with the other units in the development; and that they could provide the Board the contractors address.

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 since it will not alter the character of the neighborhood and with a letter sent to the contractor**. Vote carried 5 – 0.

Case No. 9368 – Howard and Carol Krouse – west of U.S. Route 13, 800 feet north of Road 612.

A special use exception to operate a commercial dog kennel and a variance from the setback requirements.

Ms. Hudson presented the case. Howard and Carol Krouse were sworn in and testified requesting a special use exception to operate a commercial dog kennel and a 175-foot variance from the required 200-foot setback requirement, a 6.2-foot variance from the required 200-foot setback requirement, a 160-foot variance from the required 200-foot setback requirement and a 29-foot variance from the required 200-foot setback requirement for a commercial dog kennel; that he purchased the property 3-years ago; that he built the kennel for his 4-dogs; that he breeds the dogs; that he has brought his son's dog to the property for breeding; that the puppies are sold and leave the property when they become of the proper age; that he can no longer work and would like to breed the dogs to supplement his income; that the puppies are kept inside the existing garage except for exercise and when someone is looking to purchase; that he keeps the kennel in immaculate condition; and that the dogs bark when people first come up the property and they bark at the wild animals that come on the properties nearby.

Ceibert Bragg was sworn in and testified in support of the application and stated that the Applicant is a very good neighbor; that he lives across the highway from the Applicant; and that the dogs only bark when they see someone or see other animals.

Linda Jones was sworn in and testified in opposition to the application and stated that the dogs constantly bark; that the barking prevents her and her son from sleeping at nights; that there are not a great number of wild animals on the property to create such disturbances; and that the lack of sleep from the barking is effecting her and her son's health.

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Mildred Cain was sworn in and testified in opposition to the application and stated that she owns the adjacent property; that her daughter, Linda Jones, has moved her bed to try to get away from the noise of the barking dogs; that she has seen as many as 20-dogs on the property at one time; and that there is a fence on her daughters property, however the dogs still bark.

In rebuttal, Carol Krouse, stated that she gets up a 4:00 a.m. everyday and sleeps through the night without any trouble; that she is much closer to the dogs than her neighbor; and that if the dogs do bark in the middle of the night her husband gets up to see why.

Mr. Mills asked the opposition if the traffic noise was any louder than the barking.

In rebuttal, Linda Jones, stated that the dogs are much louder than the traffic.

By a show of hands 2 parties appeared in opposition to the application.

Motion by Mr. McCabe, seconded by Mr. Workman, and carried unanimously that the case be **tabled until January 23, 2006**. Vote carried 5 – 0.

OLD BUSINESS

Case No. 9289 – Sea Air Mobile City – south of Route One, south of Dodd Avenue, being within Sea Air Mobile City Mobile Home Park.

A special use exception to place a manufactured home in the camper section of a mobile home park.

The Board discussed the case which has been tabled since November 14, 2005.

Motion by Mr. Hudson, seconded by Mr. Mills, and carried unanimously that the special use exception be **denied with the recommendation that the request go before the Planning and Zoning Commission for review.** Vote carried 5 – 0.

Case No. 9310 – Cingular Wireless – west of Road 310, 1,650 feet north of Route 24.

A special use exception for a telecommunications tower.

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

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the

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special use exception be **granted with the stipulation that the Applicant provide a report of any collocation or attempted collocation on the tower every 3-years or until the tower is at full capacity.** Vote carried 5 – 0.

Case No. 9329 – Alice V. Mayfield – west of Route One, north of Dodd Avenue, being Lot G-16 within Sea Air Mobile City Mobile Home Park.

A variance from the separation requirement between units in a mobile home park.

The Board discussed the case which has been tabled since December 12, 2005.

Motion by Mr. Mills, 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. 9339 – Charles and Patricia Firestone – southwest of Road 266, 400 feet northeast of Road 266A, being Lot 4A within Capes Cove Mobile Home Park.

A variance from the side yard setback requirement and separation requirement between units in a mobile home park.

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

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. 9241 – Gerald and Emily Hocker – intersection of Road 357 and road 358.

A special use exception for an off-premise sign.

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

Motion by Mr. Hudson, 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. 9345 – Anna C. Wade – south of Route 54, south of Grant Avenue, being Lot 30, Block 6 within Cape Windsor development.

A variance from the side yard setback requirement.

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

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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.

Meeting Adjourned 10:50 p.m.