



Board of Adjustment

Agendas & Minutes

MINUTES OF JULY 10, 2006

The regular meeting of the Sussex County Board of Adjustment was held on Monday, July 10, 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 June 26, 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. 9545 – Clear Channel Outdoor – west of U.S. Route 113, .25 mile north of Road 26.

A special use exception for a two-sided billboard and a variance from the maximum allowable square footage requirement.

Ms. Hudson presented the case. Rick Phillips was sworn in and testified requesting a special use exception for a two-sided billboard and a 276-square-foot variance from the 600-square-foot maximum allowable square footage requirement for a two-sided billboard; that the existing billboard was built in 1988; that the billboard has always been one-sided due to existing trees; that the trees have been removed; that they want to install a second side to the existing billboard; that the existing billboard measures 12'x 48'; that they would like to have replaced the existing billboard with a steel mono-pole structure; that it is financially impractical to erect a steel mono-pole structure due to the existing lease; and that both sides will be illuminated.

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 special use exception and variance be **granted since it will have no substantial effect to the neighborhood**. Vote carried 5 – 0.

Case No. 9546 – Elaine Fanning – east of Road 274, east of A Street, being Lot A22 within Rehoboth Bay Mobile Home Park.

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

Ms. Hudson presented the case. Elaine Fanning and Phil Park were sworn in and testified requesting a 4-foot variance from the required 20-foot separation requirement between units in a mobile home park; that the building permit was issued for her property in Pines At Long Neck not Rehoboth Bay; that the permit clerk made the error; that the setback requirements they followed were not correct; that had they known the correct setback requirement the deck would have complied; that only a small portion of the deck does not meet the separation requirement; and that the encroachment only effect her neighbor's landing not the unit.

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 and that the application fee be refunded to the Applicant**. Vote carried 5 – 0.

Case No. 9547 – Gerald and Pamela Voll – northeast of Road 274, Bay Drive, being Lot 53 within Rehoboth Bay Mobile Home Park.

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

Ms. Hudson presented the case. Pamela Voll was sworn in and testified requesting a 2-foot variance from the required 20-foot separation requirement between units in a mobile home park and a 5-foot variance from the required 20-foot separation requirement between units in a mobile home park; that she purchased the shed 2-years ago; that she obtained the building permit; that the building permit did not state the separation requirement nor the maximum lot coverage requirement; that the shed encroaches on her neighbor's ramp; that the addition was built by Byrd Construction; that they obtained the building permit; that the interior of the addition had to be stripped to comply with FEMA

regulations; that the addition is off 4-inches from the neighbor's unit; and that she does not think the neighbor's ramp was approved.

Christopher Fink was sworn in and testified in opposition to the application and stated that he purchased the unit last year; that he had the understanding that everything is in order with his lot; that he is only in objection to the variance regarding the shed; that he feels the shed can be moved into compliance; that there is an existing concrete pad in front of the shed; that he feels the shed could be placed on the concrete pad and still allow enough room for parking; and that he is concerned that this variance will effect his lot should he ever replace his unit.

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In rebuttal, Pamela Voll, stated that the park will not allow the shed to be placed on the concrete pad; and that there are three existing manholes in front of the shed which also impact the location of the shed.

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

Motion by Mr. Workman, seconded by Mr. McCabe, and carried unanimously that the case be **tabled until July 24, 2006**. Vote carried 5 – 0.

Case No. 9548 – Donna Lord and Polly Minnick – northeast of Road 274, east of Bay Drive, being Lot 62 within Rehoboth Bay Mobile Home Park.

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

Ms. Hudson presented the case. Pamela Voll was sworn in and testified requesting a 1-foot variance from the required 5-foot side yard requirement for a manufactured home, a 5-foot variance from the required 5-foot side yard setback requirement for a set of steps, a 9.4-foot variance from the required 20-foot separation requirement between units, a 7-foot variance from the required 20-foot separation requirement between units, and a 7-foot variance from the required 20-foot separation requirement between units; that the Applicant purchased the lot as it is; that the previous owner did not have any Certificate's of Compliances on the improvements; that the Applicant did construct a sunroom on an existing deck; that an inspection done for the sunroom found the encroachments; and that they plan to replace the existing shed in the same location.

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. 9549 – Bonnie and Harry Morrison – east of Road 274, south of Magnolia Road, being Lot 8 within Pine Valley Mobile Home Park.

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

Ms. Hudson presented the case. Bonnie and Harry Morrison were sworn in and testified requesting a 10-foot variance from the required 20-foot separation requirement between units in a mobile home park, a 5-foot variance from the required 20-foot

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separation requirement between units in a mobile home park and a 6-foot variance from the required 20-foot separation requirement between units in a mobile home park; that the proposed unit will measure 22'6"x 44'; that the previous unit was manufactured in the 1950's; that this unit is the smallest available to meet their needs and is most compatible with the previous unit and addition; and that the park has approved the unit.

By a show of hands 1 party appeared in support of or in opposition to 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. 9550 – Joseph and Dorothy Walters – northwest of Road 345, north of Calcutta Cove, being within West Beach.

A variance from the side yard setback requirement.

Ms. Hudson presented the case. Dorothy and Joseph Walters and Robert Lake were sworn in and testified requesting a 5-foot variance from the required 10-foot side yard setback requirement and a 7.7-foot variance from the required 10-foot side yard setback requirement for a second floor addition; that they built a second floor addition to the dwelling; that a variance was granted on the property in 1985; that the addition does not extend out further than the existing dwelling; that the addition is for extra living space for his family; and that they were not aware of the encroachment until the Zoning Inspector advised them they would need to apply for a variance.

Ms. Hudson stated that the office received 1 letter in support of the application and 1 letter in opposition 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 variances be **granted since it will not alter the character of the neighborhood and since the lot is unique in size**. Vote carried 5 – 0.

Case No. 9551 – Ray and Patricia Beaver – southeast of Route One, southeast of Center Avenue, being Lot D-35 within Sea Air Mobile City Mobile Home Park.

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A variance from the side yard setback requirement, a variance from the separation requirement between units in a mobile home park, and a variance from the maximum allowable lot coverage.

Ms. Hudson presented the case. Ray and Patricia Beaver were sworn in and testified requesting a 4.6-foot variance from the required 5-foot side yard setback requirement for an existing deck, a 14.8-foot variance from the required 20-foot separation requirement between units in a mobile home park and a 327.15-square-foot variance from the required 35% maximum allowable lot coverage in a mobile home park; that they purchased the unit for their retirement home; that the unit was granted a variance; that they built a deck and screen porch, and placed a shed on the lot; that they came to the Planning and Zoning Department to seek a variance and were told they did not need one; and that they obtained the building permits.

Jeannie Sisk and George Middleton, Jr. were sworn in and testified in opposition to the application and stated that the additions are already built; that the park never approved the additions; that there are front lot markers in the park; that there is a piece of rebar buried in the ground; that a survey was done in 1982 and has been submitted to the Board several times; that the park created this problem; and that they feel sorry for the Applicant's.

In rebuttal, Ray and Patricia Beaver, stated that there are no improvements meeting the required setback requirements throughout the entire park.

By a show of hands 5 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. Hudson, and carried unanimously that the case be **tabled until July 24, 2006**. Vote carried 5 – 0.

Case No. 9552 – Susan M. Schock and Frederick H. Gieringer – northeast of Road 297, northwest of Cedar Street, being Lot 74 within Bookhammers Addition.

A variance from the side yard setback requirement.

Ms. Hudson presented the case. Don Walker was sworn in with John Sergovic, Attorney, present on behalf of the application, and testified requesting a 5-foot variance from the required 15-foot side yard setback requirement for a proposed dwelling; that the lot is a non-conforming lot; that the road shown on the survey is not an actual road;

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that the variance will allow him to build a 28-foot wide dwelling on the lot; and that the side yard setback requirement would be 10-foot were it not for the “paper” road.

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. 9553 – Edith Baker – west of Road 60, 760 feet northwest of road 378.

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

Ms. Hudson presented the case. Edith Baker and Tommy Baker were sworn in and testified requesting a 50-foot variance from the required 150-foot lot width requirement for a parcel; that she wants to subdivide a lot for her son and build on the remaining portion; that her son will live in the existing dwelling; and that they will have a combined driveway if that is a requirement from DelDOT.

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 since it is a minimum variance to afford relief**. Vote carried 5 – 0.

Case No. 9554 – Sandra L. Hynson – northeast of U.S. Route 13A, 850 feet northwest of road 468, being Lots 16 and 17, Section B within Lands of David Moore.

A variance from the side yard setback requirement.

Ms. Hudson presented the case. Larry Fifer, Attorney, was present on behalf of the application, and testified requesting a 6.4-foot variance from the required 15-foot side yard setback requirement for an existing detached garage; that the Applicant is the executor of the estate; that she acquired the property in 2003; that the building has been on the property since 1976; and that the encroachment was not created by the Applicant.

Thomas Lee was sworn in and testified in opposition to the application and stated that according to the County records the property is owned by Melvin Chandler; that he does not understand why the application is under Sandra Hynson; that his wife and her

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sister own the adjacent property; and that they are concerned the garage will be turned into a residence.

In rebuttal, Larry Fifer, stated that Sandra Hynson is the Applicant because she is the executor of the estate; and that funds have been escrowed pending the approval of this application.

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

By a show of hands 5 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. McCabe, and carried unanimously that the variance be **granted since it meets the standards for granting a variance**. Vote carried 5 – 0.

Case No. 9555 – Martha Lima – south of Route 18, 500 feet west of Road 528, being Lot 2.

A variance from the maximum allowable height requirement for a fence.

Ms. Hudson presented the case. Rafael Lima was sworn in and testified requesting a 1.5-foot variance from the required 3.5-foot maximum allowable height requirement for a fence; that he is the Applicant's brother; that the fence will run across the front of the property only; that only the 6-piers will be 5-foot in height; that the fence will meet the

required height requirement; and that the fence is for decorative purpose only and will be made of stone.

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 for the piers only since it will not alter the character of the neighborhood and will not affect visibility**. Vote carried 5 – 0.

Case No. 9557 – Irma J. Ball – north of Road 506 (Shockley Road), 610 feet southwest of Road 498 (Ellis Grove Road).

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

Ms. Hudson presented the case. Irma Ball was sworn in and testified requesting a special use exception to place a manufactured home on a medical hardship basis; that she needs to move the unit from her Delmar property; that the unit on the property now is not suitable to live in; that she would like to use that unit for storage; that she plans to live in this unit while she fixes up the existing dwelling; and that she will be closer to family and friends.

Brian Brown was sworn in and testified in opposition to the application and stated that he has no objection to a unit being placed on the property; that he wants to see the property cleaned up; that the junk on the property has gotten out of hand; that he feels people are living in the campers on the property; that there are numerous junk cars on the property; that there is an constant yard sale being held on the property; and that he would be willing to help the Applicant.

In rebuttal, Irma Ball, stated that she knows the property needs to be cleaned up; that no one lives in the campers; that the yard sale items have been covered in plastic until she is able to remove them; that she currently lives in the dwelling; that the roof is in poor shape and has been covered with a tarp; and that her son will also live on the property.

In rebuttal, Brian Brown, stated that if she has the titles to the junk cars he could have them removed tomorrow; that he will put a new roof on the dwelling for only the cost of materials; and that he is more than willing to volunteer his time to get the property cleaned up.

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

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be **left open until August 7, 2006 to allow the 2-parties to work out a solution.**
Vote carried 5 – 0.

Case No. 9558 – Alisa C. Johnson – Beginner’s Choice – east of U.S. Route 113, 1,430 feet south of Road 400.

A special use exception to operate a day care facility.

Ms. Hudson presented the case. Alisa Johnson was sworn in and testified requesting a special use exception to operate a day care facility; that she will care for 54-children between the ages of 6-weeks and 14-years old; that the hours of operation will

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be Monday through Friday, 6:00 a.m. to 5:30 p.m.; that she will have 5-adult care-givers; and that there is adequate parking and a fenced in play area.

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 for 54-children, between the ages of 6-weeks and 14-years old and the hours of operation will be Monday through Friday, 6:00 a.m. to 5:30 p.m. since it will have no substantial effect to the neighborhood.**

Vote carried 5 – 0.

Case No. 9559 – Rachael L. Lynch – south of Road 381A, 2,500 feet east of Road 382.

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

Ms. Hudson presented the case. Rachael Lynch was sworn in and testified requesting a special use exception to retain a manufactured home on a medical hardship basis; that her daughter-in-law lives in the unit; that her daughter-in-law is deaf and depends on her for care; that she overlooked getting the special use exception extended due to her son’s death; and that she understands the requirements to retain the unit.

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 special use exception be **granted for a period of two (2) years**. Vote carried 5 – 0.

OLD BUSINESS

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.

The Board discussed the case which has been tabled since June 26, 2006.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the case be **tabled until July 24, 2006**. Vote carried 5 – 0.

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Case No. 9512 – Paul and Vanessa Redefer – northeast of Road 273, northeast of Corofin Lane, being Lot 92-B within Kinsale Glen development.

A special use exception for determination of use (to retain a fence within buffer zone).

The Board discussed the case which has been tabled since June 26, 2006.

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 variance**. Vote carried 4 – 0.

Case No. 9513 – Robert M. Jannone and Diane O’Connell – northeast of Road 273, northeast of Corofin Lane, being Lot 93 within Kinsale Glen development.

A special use exception for determination of use (to retain a fence within buffer zone).

The Board discussed the case which has been tabled since June 26, 2006.

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 variance**. Vote carried 4 – 0.

Case No. 9534 – Howard and Betty Ellis – south of Route 54, east of Roosevelt Avenue, being Lot 25, Block 7 within Cape Windsor development.

A variance from the side yard setback requirement.

The Board discussed the case which has been tabled since June 26, 2006.

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 since there have been numerous variances granted in the development.**

Vote carried 5 – 0.

Case No. 9535 – Deborah and Jeffrey Sterndale – northwest of Road 312, southeast of Comanche Circle, being Lot 49 within Warwick Park development.

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

The Board discussed the case which has been tabled since June 26, 2006.

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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. 9538 – Adrian Phulesar – south of Road 72, 470 feet east of Road 70.

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

The Board discussed the case which has been tabled since June 26, 2006.

Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously that the variance be **granted since it will not alter the character of the neighborhood.**

Vote carried 5 – 0.

Case No. 9540 – Robert P. Short – west of U.S. Route 113, 1,500 feet south of Route 16.

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

Ms. Hudson stated the office had not received the information of the proposed unit from the Applicant.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be **tabled until July 24, 2006.** Vote carried 5 – 0.

OTHER BUSINESS

Case No. 9452 – George L. Dale, Jr. – north of Road 402, 1,942 feet west of U.S. Route 113.

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

The Board discussed the case which has been left open since April 3, 2006.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the variance be **granted for the proposed unit**. Vote carried 5 – 0.

ELECTION OF OFFICERS

Ms. Hudson opened the nominations for Chairman.

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Motion was made by Mr. Hudson and seconded by Mr. Mills to nominate Mr. Callaway as Chairman.

There as a consensus that the nomination for Chairman be closed.

Nominations for Chairman were closed.

Motion was adopted to nominate Mr. Callaway as Chairman; 5 yea

Vote by roll call:

Mr. McCabe	-	yea
Mr. Workman	-	yea
Mr. Hudson	-	yea
Mr. Mills	-	yea
Mr. Callaway	-	yea

Ms. Hudson opened the nominations for Vice Chairman.

Motion by Mr. Workman and seconded by Mr. Hudson to nominate Mr. McCabe for Vice Chairman.

There as a consensus that the nominations for Vice Chairman be closed.

Motion was adopted to nominate Mr. McCabe as Vice Chairman; 5 yea

Vote by roll call:

Mr. Hudson	-	yea
Mr. Mills	-	yea
Mr. Callaway	-	yea
Mr. Workman	-	yea
Mr. McCabe	-	yea

The meeting was turned over to Mr. Callaway, the new Chairman.

Motion was made by Mr. Mills, seconded by Mr. McCabe to appoint Ms. Hudson as Secretary to the Board. Vote carried 5 – 0.

Meeting Adjourned 9:40 p.m.