



Board of Adjustment
Agendas & Minutes

MINUTES OF JUNE 19, 2006

The regular meeting of the Sussex County Board of Adjustment was held on Monday, June 19, 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 with a motion to table Case No. 9512 – Paul and Vanessa Redefor and Case No. 9513 – Robert M. Jannone and Diane O'Connell until July 10, 2006. Vote carried 5 – 0 .

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of June 5, 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. 9515 – Robert Crawford – east of Road 274, west of G Street, being Lot G-26 within Rehoboth Bay 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. Robert Crawford was sworn in and testified requesting a 1.2-foot variance from the required 10-foot side yard setback requirement and a 2-foot variance from the required 20-foot separation requirement between units in a mobile home park for a proposed manufactured home; that he has lived in the park for 20-years; that he is retiring to the area; that he has purchased a double-wide manufactured home; that when the permit was obtained he discovered he could not meet the setback requirements; that the unit will measure 28'x 64'; that the park supports the application; and that he submitted letters of support from his neighbors.

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 for 1.2-foot variance from each 10-foot side yard setback requirement and a 2-foot variance from the required 20-foot separation requirement between units since it meets the standards for granting a variance.**
Vote carried 5 – 0.

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Case No. 9516 – D & M Associated Properties LLC – north of Route 22, north of Teal Drive, being Unit 5-10 within Creeks End development.

A variance from the maximum allowable building length.

Ms. Hudson presented the case. Mike Ebner and George Harrison, Jr. were sworn in and testified requesting a 7-foot variance from the maximum building length of 165-foot for a building; that the building is 172-foot in length; that building was approved through Planning & Zoning Commission at 172-foot; that the length of the building was never noticed in the planning stages; that when a survey was done for the declaration plan the length of the building was discovered; that 3-units have been issued Certificate of Compliance's; that there is no negative impact to the community; that the building meets all the required setback requirements; and that they submitted pictures.

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

Case No. 9517 – John and Joyce Yokley – south of Route One, west of Dodd Avenue, being Lot 22 and part of Lot 24, Block B within Ann Acres development.

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

Ms. Hudson presented the case. John and Joyce Yokley were sworn in and testified requesting a 12.2-foot variance from the required 30-foot front yard setback requirement and a 4-foot variance from the required 10-foot side yard setback requirement for a proposed second floor addition and porch; that the dwelling is non-conforming; that the second floor addition will be built within the footprint of the existing dwelling; that they purchased the property in 1985; that the addition is needed to accommodate his family of six; that the proposed addition will not alter the character of the neighborhood; that the non-conforming dwelling is unique; that it was not created by

the Applicant; that the property cannot be otherwise developed; that there are other 3 and 4 story structures in the area; and that he submitted booklets.

Kay Wheatley was sworn in and testified in opposition to the application and stated that this application was denied in April 2005; that there have been no corrections to the existing violations on this property; that all the construction on Dodd Avenue has been done within the setback requirements; that the parties in support of the application

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are not directly effected by this variance request; that the Applicant rents this property during the summer; that there is a huge parking problem; that the Applicant does not show a hardship; and that she submitted the minutes from the hearing in April 2005.

Mr. Berl stated that the Board needed to determine whether this application differs from the original application in April 2005.

John and Joyce Yokley were brought forward to prove a difference between the two application; that after the last hearing they invited their neighbors to discuss their issues with the addition; that they have tried to create more parking area by removing a tree; that they do rent the property and do not always know when parking is causing a problem; and that they can make the porch smaller to lessen the front yard variance.

By a show of hands 9 parties appeared in opposition to the application.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the case be **denied due to lack of proof of a substantial difference between the applications and that the Applicant be refunded the application fee since the Planning and Zoning office did not pick up the previous application.**

Vote carried 5 – 0.

Case No. 9518 – Cheryl S. West – south of Road 443A, 2,800 feet west of Road 62.

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

Ms. Hudson presented the case. Cheryl West was sworn in and testified requesting a special use exception to place a manufactured home on a medical hardship basis; that the unit will be for her daughter; that she needs her daughter nearby to help with her medical needs; that they have not purchased a manufactured home yet; that the unit will be a single-wide; and that she acknowledged she is aware of the stipulations that come with the approval of a medical hardship.

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 case be **left open to have the Applicant provide a year and size of the unit to the Board**. Vote carried 5 – 0.

Case No. 9519 – James Nickerson – northeast of Road 298, north of Shady Lane, being Lot 13 within Shady Lane development.

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A variance from the front yard setback requirement.

Ms. Hudson presented the case. James Nickerson was sworn in and testified requesting a 0.1-foot variance from the required 30-foot front yard setback requirement for an existing dwelling; that the contractors cut the strings that marked the location of the dwelling prior to pouring the concrete foundation; that the original survey was done in 1983; that a new survey shows the encroachment; that there will not be a porch on the front of the dwelling; and that the pole barn has been granted a variance.

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**. Vote carried 5 – 0.

Case No. 9520 – Linda Solum and Robert J. Cress, Jr. – south of Road 602, 1,485 feet west of Road 594, being Lot 2 within Pine Haven Farms development.

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

Ms. Hudson presented the case. Linda Solum and Robert Cress were sworn in and testified requesting a special use exception to place a manufactured home on a medical hardship basis; that they purchased this lot several years ago with an existing manufactured home on the parcel; that they want to place a double-wide unit on the property to help with the care of their son; that the unit will measure 28'x 54'; and that they acknowledge they are aware of the stipulations that come with the approval of a medical hardship.

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 for a period of two (2) years since it will have no substantial effect to the neighborhood**. Vote carried 5 – 0.

Case No. 9521 – Old Meadow Properties LLC – south of Route One, 933 feet west of Road 276.

A special use exception to replace an existing billboard.

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Ms. Hudson presented the case. Robert Wright was sworn in and testified requesting a special use exception to replace an existing billboard; that he has torn down the previous billboard; that the proposed billboard will be half the size as the previous billboard; that the billboard will be a steel monopole structure; that the billboard will measure 12'x 25' and be two-sided; that the billboard will meet all the required setback requirements; that the billboard will be illuminated; and that the billboard will not advertise for any existing businesses on the property.

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 be an improvement to the property**. Vote carried 5 – 0.

Case No. 9522 – Elener and Jay Robert Hoffer, Sr. – southeast of Road 368, west of Ocean Air Drive, being Lot C-1 within Ocean Air development.

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

Ms. Hudson presented the case. Clint Hoffer was sworn in and testified requesting a 10.4-foot variance from the required 30-foot front yard setback requirement for an existing manufactured home; that the Applicant's are his parents; that they purchased a manufactured home from Manufactured Housing Concepts; that the dealer handled the entire process from permitting to the placement of the unit; that they were unaware of the encroachment until the Planning and Zoning inspector sent them a notice of violation in the mail; that they have received no satisfaction from the dealer on how this situation will be handled if the variance is not granted; and that they would have purchased a smaller unit had they known this unit would not meet the setback requirements.

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

Motion by Mr. Hudson, seconded by Mr. Mills, and carried unanimously that the variance be **granted since it was not created by the Applicant and since it will enable reasonable use of the property and will not alter the character of the neighborhood and with the stipulation that Mr. Berl send a strong letter to Manufactured Housing Concepts**. Vote carried 5 – 0.

Case No. 9523 – Ricky Adkins – west of Road 474, 2,300 feet southeast of road 28.

A variance from the side yard setback requirement.

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Ms. Hudson presented the case. Ricky Adkins was sworn in and testified requesting a 0.4-foot variance from the required 15-foot side yard setback requirement for an existing dwelling and a 0.2-foot variance from the required 5-foot side yard setback requirement for an existing shed; that Kersey Homes set the dwelling in 1995; that he built the shed; and that a survey done for settlement shows the encroachment.

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. 9524 – Edward and Carole Stinson – east of Road 305, west of Shawnee Court, being Lot 4 within Indian Meadows development.

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

Ms. Hudson presented the case. Edward and Carole Stinson were sworn in and testified requesting a 10-foot variance from the required 40-foot front yard setback requirement for a through lot; that they were unaware of the property having two front yard setback requirements until after they purchased the dwelling; that they want to place a shed on the property; that the property is pie shaped; that only one corner of the shed will encroach; that this is the only practical location to place a shed on their property; that the Homeowner's Association is in support of the application; that their neighbor's have sheds that have received variances; that the shed will measure 12'x 20'; that the Homeowner's Association requires that the shed be stick built and placed on a concrete slab; and that they submitted pictures.

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. 9525 – Joseph and Paula Romeo – northeast of Road 298, north of William Drive, being Lot 62, Section 3 within William Ritter Manor development.

A variance from the front yard setback requirement.

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Ms. Hudson presented the case. Paula and Joseph Romeo were sworn in and testified requesting a 2-foot variance from the required 30-foot front yard setback requirement for a proposed addition; that the dwelling was placed in 1994; that the dwelling was to be placed 42-foot from the front yard property line to allow for the proposed addition; that the location survey done shows the dwelling at 42-foot from the property line; that the same surveyor did a second survey showing the dwelling to only be 39.8-foot from the front yard property line; that Nanticoke Homes did not place the dwelling properly on the lot; and that the proposed addition will measure 12'.1"x 21'.6".

Donald Emory, Sr. and Charles Scott were sworn in and testified in opposition to the application and stated that they are property owners in Woodlyn Estates; that the Applicant's rear yard property line is adjacent to their development; that the error in the survey extends the Applicant's property into their development; that their development has existed since 1987; and that they are opposed to the construction of this addition.

In rebuttal, Joseph Romeo, stated that he wishes to resolve this issue with his neighbors.

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

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to take the case 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 the condition that the variance be retracted if found not necessary due to the possible error with the survey**. Vote carried 5 – 0.

The Board recessed for 5-minutes.

Case No. 9526 – Equity Homes – south of Route 9, west of Kit's Burrow Court, being Lot 23 within Beaver Dam Estates development.

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

Ms. Hudson presented the case. Jeff Shooty was sworn in and testified requesting a special use exception to place a manufactured home type structure as a sales office; that the temporary unit will measure 12'x 48'; that the unit will be removed once the model is completed; that there will be adequate parking; that the unit will have landscaping; and that the unit will be needed for approximately 12-months.

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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 special use exception be **granted for a period of 12-months**. Vote carried 5 – 0.

Case No. 9527 – Mary Littleton – north of Road 480 (Waller Road), 370 feet east of Road 489 (Dillards Road).

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

Ms. Hudson presented the case. Herman Littleton and Mary Littleton were sworn in and testified requesting an 87.58-foot variance from the required 150-foot lot width requirement for a parcel; that they want to re-configure the existing property line; that she wants to give equal lot sizes to her two sons; that all the improvements have existed on the lot for approximately 25-years; and that they also want to incorporate an existing garage with his brother's portion of land.

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 will not alter the character of the neighborhood and since no additional lots are being created**. Vote carried 5 – 0.

Case No. 9528 – Richmond American Homes – southwest of Road 286, 300 feet west of Road 285, being Lot 298 within Heron Bay development.

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

Ms. Hudson presented the case. David Whatman was sworn in and testified requesting a special use exception to place a manufactured home type structure as a sales office; that the unit will measure 12' x 60'; that the unit will be removed once the model is complete; that the unit will have landscaping and adequate parking; and that the unit will be needed for approximately 1-year.

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

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Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the special use exception be **granted for a period of one (1) year since it will have no substantial effect to the community.** Vote carried 5 – 0.

Case No. 9529 – David Fluharty, Sr., Trustee – northeast of Road 78, 600 feet southeast of Road 536.

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

Ms. Hudson presented the case. David Fluharty, Sr. and Rick Marvel were sworn in and testified requesting a 13.8-foot variance from the required 20-foot rear yard setback requirement and a 3-foot variance from the required 10-foot side yard setback requirement; that a variance was granted for the garage on October 3, 2005; that the Applicant misunderstood what would be considered the front yard at the time of the first hearing; and that he owns the adjacent properties.

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

OLD 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 reviewed the pictures of the proposed unit submitted by the Applicant.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variance be **granted with the condition that the unit be one of the units shown in the pictures since it will not alter the character of the neighborhood.** Vote carried 5 – 0.

Case No. 9503 – Phillip Cross and Prentice Watkins – south of Route 18, 418 feet west of Stuart Drive.

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A special use exception for a commercial greenhouse and nursery on less than five (5) acres.

The Board discussed the case which has been tabled since June 5, 2006.

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 4 – 0.

Case No. 9508 – Christine Davis – north of Route One, north of Tulip Drive, being Lot 1 within Dutch Acres development.

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

The Board discussed the case which has been tabled since June 5, 2006.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variances be **granted since it will not alter the character of the neighborhood and since it will enable reasonable use of the property.** Vote carried 4 – 0.

Case No. 9509 – Mary J. Teti and Martha L. Gurney – southeast of Route 9, northeast of Quaker road, being Lot 5 within Quaker Heights development.

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

The Board discussed the case which has been tabled since June 19, 2006.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variances be **granted with the stipulation that the Applicant obtain a building permit.** Vote carried 4 – 0.

Case No. 9514 – Albert and Patricia Riedinger – north of Maryland Avenue, 350 feet east of Route One, being Lot 7, Section C.

A variance from the front yard setback requirement.

The Board discussed the case which has been tabled since June 5, 2006.

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 4 – 0.

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OTHER BUSINESS

Case No. 9067 – Earl Warren – northwest of Road 271, 0.7 miles northeast of Route One.

A special use exception to place a manufactured home for storage purposes and a special use exception to place two (2) on farm manufactured homes.

Ms. Hudson read the Applicant's letter requesting a 2-year time extension.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the request for a time extension be **denied**. Vote carried 5 – 0.

Meeting Adjourned 9:30 p.m.