



Board of Adjustment

Agendas & Minutes

MINUTES OF MARCH 20, 2006

The regular meeting of the Sussex County Board of Adjustment was held on Monday, March 20, 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. 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 March 6, 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. 9429 – Barbara and Daniel James Jr. – southeast of Bay Shore Drive, southeast of Carey Street, being Lot 9 within Prime Hook Beach.

A variance from the side yard setback requirement.

Ms. Hudson presented the case. Barbara and Daniel James, Jr. were sworn in and testified requesting a 5-foot variance from the required 15-foot side yard setback requirement for a proposed dwelling; that Carey Street only exists on paper; that the street is not used; that there is only foot traffic to the beach along the street; that a variance was granted for the previous dwelling; and that the variance will allow for a more aesthetically pleasing dwelling on the lot.

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. 9430 – Jose and Trisha Vazquez – southwest of Road 600, 1,400 feet north of Road 611.

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

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Ms. Hudson presented the case. Jose Vazquez was sworn in and testified requesting a special use exception to retain a manufactured home on a parcel; that he plans to subdivide the property; that his mother lives in the manufactured home; that there is a camper on the property; that his sister uses the camper as a place to hang out with friends; that no one lives in the camper; and that the camper is connected to a septic system and has running water.

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

Motion by Mr. Workman, 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 special use exception be **granted since there will be no substantial effect to the neighborhood, and with the stipulation that the camper be removed from the property within 60-days or the special use exception will become void.** Vote carried 5 – 0.

Case No. 9431 – Walter H. Smith, Jr. – west of Road 282, 365 feet south of Route 9, being Lot 6 within Arabian Corners development.

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

Ms. Hudson presented the case. Deana and Walter Smith, Jr. were sworn in and testified requesting an 8-foot variance from the required 40-foot front yard setback requirement for an existing porch and a 20-foot variance from the required 30-foot front yard setback requirement for existing sheds; that they had a porch built by a contractor; that one shed has been on the lot for over 30-years; that the second shed was placed by a shed company; that they were not aware that any of the structures were encroaching; 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. Mills, and carried unanimously that the variances be **granted since it will not alter the character of the neighborhood and that letters be sent to the builder and shed company.** Vote carried 5 – 0.

Case No. 9432 – Keith Properties, Inc. – south of Route 54, east of Road 58B, being Lot 1 within Fenwick Shoals development.

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

No one appeared on behalf of the application.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the case be **denied due to lack of a record of support.** Vote carried 5 – 0.

Case No. 9433 – Bella Vista Development, LLC – south of Route One, 358 feet east of Road 273A, being Units 19 and 25 within Bella Vista Condominium.

A variance from the side yard setback requirements.

Ms. Hudson presented the case. Peter Lowenstein and Wayne Mitchell were sworn in with Dan Myers, Attorney, present on behalf of the application, and testified requesting a 1-foot variance from the required 10-foot side yard setback requirement; that they withdraw the requested variance for Unit 19; that the new surveys they submitted show that Unit 19 will meet the required setback requirements; that it is unclear where the mistake was made; that they believe the markers were moved; that there is no decrease in distance between the buildings; that the variance does not create a fire hazard; that it would be extremely difficult to move the building; and that pictures were submitted.

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 the minimum variance to afford relief.** Vote carried 5 – 0.

Case No. 9434 – Paul and Vickie Daisey – east of Route One, 250 feet north of Virginia Avenue, being Lot 9, Section D.

A variance from the side yard setback requirement.

Ms. Hudson presented the case. Paul Daisey was sworn in and testified requesting a 3-foot variance from the required 10-foot side yard setback requirement for a proposed set of steps; that the steps are needed to access the second floor; that he thought the steps could encroach 5-foot into the setback; that he has built another dwelling in the area with the same type of steps; 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. 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. 9435 – Alice C. Fagans and Ruth Ann Mattingly – south of Alabama Avenue, 300 feet east of North Bayshore Drive, being Lot 5, Block I.

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

Ms. Hudson presented the case. Alice Fagans and Chris Collins were sworn in and testified requesting a 4-foot variance from the required 10-foot side yard setback requirement and a 15-foot variance from the required 30-foot front yard setback requirement; that they want to raise the existing dwelling and build a second floor addition; that the proposed addition will not encroach any further into the setback than the original structure; that only the steps will encroach into the front yard setback; that the request will not alter the character of the neighborhood; and that they showed exhibits to the Board.

James B. Mears, Jr. was sworn in and testified in opposition to the application and stated that he owns the adjacent property; that he is concerned that the dwelling will be too large for the property; that he is concerned about his view and the run-off problem that would be created by the additions; that he feels the 50-year old dwelling will not be strong enough foundation to support the proposed additions; and that he submitted pictures.

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 April 3, 2006**. Vote carried 5 – 0.

Case No. 9436 – CMF Bayside, LLC – south of Route 54, 700 feet west of Route 20, being within Americana Bayside.

A special use exception to place a manufactured home type structure and temporary buildings as sales offices.

Ms. Hudson presented the case. Douglas Brown and James Willey were sworn in and testified requesting a special use exception to place a manufactured home type structure and temporary buildings as sales offices; that the structures were previously

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approved by the Board for a period of 2-years; that they need to extend the use for approximately 5-years; that a significant investment has been made to make the temporary structures attractive; that there is a forested buffer between the structures and the adjacent property owner; that there has been a delay in the overall design of the development's town center; that the town center will replace the temporary structures; and that they feel 5-years will be sufficient time to complete the project.

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

Case No. 9437 – Suzanne L. Mundorf – east of Road 334, 525 feet east of Coffin Lane.

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

Ms. Hudson presented the case. Suzanne Mundorf and David Coffin were sworn in and testified requesting a special use exception to place a manufactured home on a medical hardship basis; that she plans to place a new double-wide on the property; that the existing unit will be used by her son; that the existing unit is set up to accommodate her son's needs; and that she cares for her son.

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 not substantially effect the neighborhood**. Vote carried 5 – 0.

Case No. 9438 – Jean Richardson – north of Route 9, east of Bristol Way, being Lot A-55 within Sussex East Mobile Home Park.

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

Ms. Hudson presented the case. Jean Richardson was sworn in and testified requesting a 5-foot variance from the required 20-foot separation requirement between units in a mobile home park; that she purchased the unit in December; that the deck was already built; that she wants to enclose the deck; that the park management informed her she would need to apply for a variance; and that she submitted drawings of proposed addition.

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Edward Arthur was sworn in and testified in opposition to the application and stated that he owns the adjacent unit; that he feels the enclosed addition will adversely effect his lot; that the deck is clearly too large for the area; that he has no objection to the existing deck; and that he feels the addition will alter the character of the neighborhood.

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

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

Motion by Mr. Hudson, seconded by Mr. Workman, and carried unanimously that the case be **tabled until April 3, 2006**. Vote carried 5 – 0.

Case No. 9439 – Jessica Ortiz-Rosales – intersection of Route 16 and Road 595.

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

Ms. Hudson presented the case. Jessica Ortiz-Rosales was sworn in and testified requesting a variance from the maximum age requirement for a manufactured home; that the proposed unit is a 1999, 28' x 41'; that the unit is in excellent condition; that the owner of the unit has to move the unit due to sale of his property; and that the unit will be placed on a block foundation.

Jason Moore was sworn in and testified in opposition to the application and stated that he is an adjacent property owner; that he is concerned that the unit will decrease his property value; and that he would like to see a picture of the proposed unit.

Frank Joseph was sworn in and testified in opposition to the application and stated that he owns adjacent property; that Wheatley Estates has restrictions that do not allow manufactured homes; that the property has a tax ditch that runs across the rear of the property; that he is concerned for the type of septic and well that can be used on the property; and that he would like to see a picture of the unit.

In rebuttal, Jessica Ortiz-Rosales, stated that her property is not within Wheatley Estates; that she has already been approved for her septic and well; that she has no objection to submitting pictures of the unit for review; and that she will keep her property and home in very good condition.

Ruby Selavan was sworn in and testified in support of the application and stated that she has a stick built home on her property; and that there is a manufactured home across from her and that it has no effect to her property value.

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

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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 **left open to allow the Applicant to submit pictures showing all angles of the proposed manufactured home and to allow the opposition to review the pictures.**
Vote carried 5 – 0.

OLD BUSINESS

Case No. 9284 – Mary Grouke – southeast of Route 24, south of Clematis Street, being Lot I-7 within Love Creek Mobile Home Park.

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

Ms. Hudson read a letter from the Applicant withdrawing their application.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variance be **denied**. Vote carried 5 – 0.

Case No. 9406 – CMF Bayside, LLC – east of Road 295, west of Signature Boulevard, being within Americana Bayside development.

A variance from the separation requirement between units.

The Board discussed the case which has been tabled since February 27, 2006.

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. 9409 – Jacob Widerman – southwest of Route 14, southwest of Concord Drive, being Lot 15 within Shawnee Acres development.

A variance from the minimum lot width requirement.

Mr. Berl stated that there was no record found to support that the subdivision was ever reconfigured; and that there always have been three separate lots.

The Board discussed the case which has been tabled since February 27, 2006.

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Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variance be **granted 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. 9411 – Richard and Diane Lockwood – northeast of U.S. Route 113, 140 feet southeast of Road 432.

A variance from the side yard setback requirement.

The Board discussed the case which has been tabled since February 27, 2006.

Motion by Mr. Workman, seconded by Mr. Hudson, and carried unanimously that the variance be **granted 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. 9414 – Billy and Janis Davis – east of Road 70, 720 feet north of Road 451.

A variance from the minimum lot width requirement and a variance from the side yard setback requirement.

The Board discussed the case which has been tabled since March 6, 2006.

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

Case No. 9421 – Darrell Long – south of Route 54, west of Tyler Avenue, being Lot 39, Block 5 within Cape Windsor development.

A variance from the side yard setback requirement.

The Board discussed the case which has been tabled since March 6, 2006.

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

OTHER BUSINESS

Case No. 8890 – Charles R. Burton – northeast of Route One, southeast of James A Street, being Lot 16, Block C within Dodds Addition Development.

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

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Ms. Hudson read a letter from the Applicant requesting a time extension.

Motion by Mr. McCabe, 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.

Case No. 9384 – P & A LLC (Maryland) – east of U. S. Route 13, 2,050 feet south of Road 452.

A special use exception to place a manufactured home type structures as offices and a lab.

Ms. Hudson read a letter from the Applicant requesting to re-apply to the Board.

Motion by Mr. Hudson, seconded by Mr. Workman, and carried unanimously that the request to re-apply be **denied**. Vote carried 5 – 0.

Meeting Adjourned 9:03 p.m.