



*Board of Adjustment*  
Agendas & Minutes

**MINUTES OF MAY 1, 2006**

The regular meeting of the Sussex County Board of Adjustment was held on Monday, May 1, 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 April 17, 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. 9470 – Ty Huskey** – south of Road 535, east of Riverside Drive, being Lot 8 within The Island Development.

A variance from the side yard setback requirement.

Ms. Hudson presented the case. Ty Huskey was sworn in and testified requesting a 5-foot variance from the required 10-foot side yard setback requirement for a proposed addition; that the proposed addition will be a master suite and an attached garage; that the proposed location is the best location for the proposed addition; that the existing drain field and crawl space entrance prevent the addition being located on the opposite side of the property; that his neighbors support the application; and that he submitted pictures.

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

Ms. Hudson stated that the office received 1 letter in support of the application.

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

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the variance be **granted since it meets the standards for granting a variance**.  
Vote carried 5 – 0.

**Case No. 9471 – Judith Lacy, Joshua Lacy and Sheryl Lacy** – northwest of Road 351 (Clubhouse Road), 250 feet northeast of Road 349 (Old Mill Road), being bounded by Banks Acres development, Section D.

Minutes  
May 1, 2006  
Page 2

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

Ms. Hudson presented the case. Glen Piper was sworn in and testified requesting a 21.22-foot variance from the required 150-foot lot width requirement and a 75.33-foot variance from the required 150-foot lot width requirement for a parcel; that the developer never subdivided these two parcels; that the lots will have a combined driveway; that the subdivision is needed to settle an estate; that the neighborhood supports the application; and that he submitted pictures.

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

Ms. Hudson stated that the office received a petition with 116-signatures in support of the application.

Ms. Hudson stated that the office received 1 letter 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 variances be **granted since it will not alter the character of the neighborhood and that it was not created by the Applicant**. Vote carried 5 – 0.

**Case No. 9472 – David and Annette Fanelli** – south of Road 341-B, east of Poole Court, being Lot 226 within Dogwood Acres development.

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

Ms. Hudson presented the case. David Fanelli and Holly Burns were sworn in and testified requesting a 16-foot variance from the required 40-foot front yard setback requirement and an 8-foot variance from the required 20-foot rear yard setback requirement for a proposed porch; that the proposed porch will be 12-foot wide; that they were given the wrong setbacks when the dwelling was placed; that due to this error they

did not allow room for the proposed porch; that the lot is unique in shape; and that they submitted pictures.

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.

Minutes  
May 1, 2006  
Page 3

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 that the lot is unique in size**. Vote carried 5 – 0.

**Case No. 9473 – George and Eugenia Romilly** – east of Pennsylvania Avenue, south of Ayres Road, being Unit #4 within Sussex Shores.

A variance from the rear yard setback requirement.

Ms. Hudson presented the case. George and Eugenia Romilly were sworn in and testified requesting a 2-foot variance from the required 10-foot side yard setback requirement for an existing first and second level deck; that they have lived in the community for 14-years; that they had the deck re-built; that they followed the covenant rules which requires an 8-foot setback from the existing alley; that it was not until after the deck was constructed that they realized the County requirements superceded the development; that the alley is not used in any way; and that his contractor obtained the building permit.

George Cole was sworn in and testified in opposition to the application and stated that he the owner of the adjacent unit; that the decks were removed in November; that the builder started construction without any permits; that the Applicant is aware permits are needed from the condo association; that the existing decks did not encroach and only need minor repairs; that the actual Applicant should have been the Condo Association; that the Applicant has shown no uniqueness; that there is no hardship to the Applicant; that the need was created by the Applicant; that the Applicant is well aware of the procedure that is to be followed; and that the approval of this variance will set a precedent.

John Neff was sworn in and testified in opposition to the application and stated that the alley is an easement for Sussex Shores and that the extension of the deck will effect the entire condo association.

In rebuttal, George Romilly, stated that the contractor started to remove the existing decking in November; that there have been several calls and discussions between themselves and the Association; that after 60-days they still had no response from the Association and by default they are granted to proceed with construction; and that they submitted a letter.

In rebuttal, George Cole, stated that he still questions who the actual Applicant should be; and that he submitted letters and a copy of the recorded plot plan.

By a show of hands 4 parties appeared in opposition to the application.

Minutes  
May 1, 2006  
Page 4

Ms. Hudson stated that the office received 1- letter in support of the application and 1-letter 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. McCabe, seconded by Mr. Workman, and carried unanimously that the case be **tabled until May 15, 2006**. Vote carried 5 – 0.

**Case No. 9474 – Thomas Ritchey** – south of Route 54, west of Grant Avenue, being Lot 61, Block 6 within Cape Windsor development.

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

Ms. Hudson presented the case. Linda Neilson and Tom Ritchey were sworn in and testified requesting a 5-foot variance from the required 10-foot side yard setback requirement and a 5-foot variance from the required 20-foot rear yard setback requirement for a proposed dwelling; that the dwelling will measure 27.6' x 56' with a 10-foot porch; that Cape Windsor supports the application; that the 5-foot variance from the side will allow room for parking on the lot; and that the proposed dwelling will be in the same location as the existing unit.

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. Hudson, and carried unanimously that the variance be **granted since it will not alter the character of the neighborhood and since there has been numerous variances granted in the development**.  
Vote carried 5 – 0.

**Case No. 9476 – Dean R. and Deborah J. Jester** – south of Road 207, 1,850 feet west of Road 621.

A variance from the rear yard and side yard setback requirements and a variance from the minimum square footage requirement for a parcel.

Ms. Hudson presented the case. Deborah Jester was sworn in and testified requesting a 2-foot variance from the required 5-foot rear yard setback requirement, a 4.2-foot variance from the required 15-foot side yard setback requirement and an 872-square-foot variance from the required 32,670-square-foot lot size requirement; that she

Minutes

May 1, 2006

Page 5

owns a 1.48-acre parcel; that the existing dwelling was built in 1941; that all the existing improvements were on the property when she purchased it in 1998; and that they meet the lot width requirement to subdivide.

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 be **granted since it meets the standards for granting a variance**.  
Vote carried 5 – 0.

**Case No. 9477 – Cingular Wireless** – east of U.S. Route 113, 2,100 feet south of Road 213.

A special use exception to place a telecommunications tower.

Ms. Hudson presented the case. Ed O'Mara, Robert McKennon and Cal Ahbid were sworn in with Pamela Scott, Attorney, on behalf of the application, and testified requesting a special use exception to place a telecommunications tower; that the proposed tower will be a 150-foot monopole structure; that the tower is needed to fill a gap in coverage; that there will be a 50'x50' fenced in compound area at the base of the tower; that the tower will meet all required setback requirements; that the tower will meet the required lighting requirements; that the tower will accommodate up to 4-other carriers; and that the tower will not adversely effect the character of the neighborhood.

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

**Case No. 9478 – Regina Pruitt** – southwest of Road 331, east of 5<sup>th</sup> Street, being Lot 13, Block D within Riverview development.

A variance from the minimum lot size requirement to place a manufactured home.

Ms. Hudson presented the case. Regina Pruitt was sworn in and testified requesting an 11,070-square-foot variance from the required 32,670-square-foot lot size requirement for a manufactured home; that the proposed unit is a 2006 double wide; that

Minutes  
May 1, 2006  
Page 6

she purchased the lot prior to purchasing the unit; and that the proposed unit is not out of character with the neighborhood.

Ms. Hudson stated to the Board that the development consists of GR and AR-1 zoning.

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. Hudson, 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. 9479 – Tile Market of Delaware, Inc.** – southeast of Dartmouth Drive, 375 feet southwest of Route One.

A variance for additional wall signs and a variance from the maximum square footage of a sign.

Ms. Hudson presented the case. Paul Anderson was sworn in and testified requesting a variance for 2-additional wall signs and a 60-square-foot variance from the required 100-square-foot wall sign requirement; that the two additional signs are made of vinyl and measure 4'x20'; that the new WAWA store blocks the view of his storefront; that there is no adverse effect to the neighborhood; and that he submitted pictures.

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 **tabled until May 15, 2006**. Vote carried 5 – 0.

**Case No. 9480 – David and Anne Allen** – northwest of Road 535, 54.68 feet east of Brown Street, being Lots 2, 3 and 4 within Charles G. Friedel Subdivision.

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

No one appeared on behalf of the application.

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

Minutes  
May 1, 2006  
Page 7

**Case No. 9481 – Donald M. and Mary Louise O’Bier** – west of Road 229, 1,700 feet north of Road 229A, being Lot 1.

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

Ms. Hudson presented the case. Mary and Donald O’Bier were sworn in and testified requesting a 31-foot variance from the required 150-foot lot width requirement for a parcel; that they own a 10-acre parcel; that they want to subdivide the property for his mother; and that the neighbors support the application.

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

Motion by Mr. Hudson, seconded by Mr. McCabe, and carried unanimously that the variance be **granted since it will enable reasonable use of the property**. Vote carried 5 – 0.

**Case No. 9482 – Patricia Althouse** – east of Route One, east of Colonial Lane, being Lot 18 within Colonial East Mobile Home Park.

A variance from the maximum allowable lot coverage, 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. Patricia Althouse and Allen Shelley were sworn in and testified requesting an 84-square-foot variance from the required 35% maximum allowable lot coverage requirement, a 7.5-foot variance from the required 20-foot separation requirement between units in a mobile home park, and a 4-foot variance from the required 5-foot side yard setback requirement; that they obtained approval from Colonial East; that the park staff staked out the property; that when the unit was partially in place the park notified them that the unit was going to encroach; and that Atlantis Homes did not check the setback requirements on the placement permit.

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. Hudson, and carried unanimously that the variances be **granted since it will not alter the character of the neighborhood**.  
Vote carried 5 – 0.

Minutes  
May 1, 2006  
Page 8

**Case No. 9483 – Dawn Smith** – south of Route One, northwest of Atlantic Avenue, being Lot E-30 within Sea Air Mobile City Mobile Home Park.

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

Ms. Hudson presented the case. Dawn Smith and Jeanne Sisk were sworn in and testified requesting a 2.5-foot variance from the required 20-foot separation requirement and a 2-foot variance from the required 20-foot separation requirement from unit D29 and a 9-foot variance from the required 20-foot separation requirement from the shed on Lot D29; that her existing unit burnt down; that the previous unit measured 14' x 70'; that the existing unit measures 14' x 68'; that Lynn Rogers advised her to place the unit in the park; and that at the time of the placement she was not aware of the present problems within the park.

Ms. Hudson stated that a placement permit was issued by Planning and Zoning as a temporary hardship permit due to a fire; and that the permit is good until March 2007.

The Board explained to the Applicant that a survey is required with the application.

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. McCabe, and carried unanimously that the case be **tabled until the Applicant can provide a survey**. Vote carried 5 – 0.

**Case No. 9484 – Leslie S. Miller** – north of Smiling Wolf Lane, 250 feet southeast of Road 307.

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



Ms. Hudson presented the case. Leslie Miller and Bryan Edwards were sworn in with Ken Feaster, Attorney, present on behalf of the application and testified requesting a 12-foot variance from the required 20-foot rear yard setback requirement and a 14-foot variance from the required 30-foot front yard setback requirement for a proposed dwelling; that the Assessment department advised the Applicant that the west side of the property would be considered their front yard; that they purchased a dwelling that would meet the setback requirements; that the size of the dwelling is needed to provide adequate space for their family; that the adjacent property owners are family members; and that the variance request will not alter the character of the neighborhood.

Minutes  
May 1, 2006  
Page 9

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 variance be **granted since it meets the standards for granting a variance**.  
Vote carried 5 – 0.

### **OLD BUSINESS**

**Case No. 9469 – Gerald and Helen Foulz** – northeast of Road 23, southeast of Lingo Drive, being Unit 37 within Lingo Estates.

A variance from the side yard setback requirement and a variance from the buffer zone setback requirement.

The Board discussed the case which has been tabled since April 17, 2006.

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 since it was not created by the Applicant**. Vote carried 5 – 0.

**Meeting Adjourned 9:18 p.m.**