



Board of Adjustment

Agendas & Minutes

MINUTES OF MAY 7, 2007

The regular meeting of the Sussex County Board of Adjustment was held on Monday May 7, 2007, 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. Dale Callaway, Mr. Ronald McCabe, Mr. John Mills, Mr. Brent Workman and Mr. Jeff Hudson, with Mr. Richard Berl – Assistant County Attorney and staff members Mr. Norman Rickard, Mrs. Melissa Thibodeau, and Ms. Kelly Eaton – Recording Secretary.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Revised Agenda. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of April 16, 2007 with the correction to change the vote from 4 – 1 to 3 – 2 for Case No. 9817 – David Nocks and Tameka Hicks. 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.

PUBLIC HEARINGS

Case No. 9821 – Samuel and Mary Hoffman- south of Route 54, east of Roosevelt Avenue, being Lot 28 within Cape Windsor development.

A variance from the 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 the for lack of a record of support**. Vote carried 5 – 0.

Case No. 9822 – Leslie H. Holland- west of Kerlyn Drive, 307.50 feet south of U.S. Route 113, being Lots 19 and 20 within William A. Hudson Subdivision.

A variance from the side yard set back requirement.

Mr. Rickard presented the case. Leslie H. Holland was sworn in and testified requesting a 2.4-foot variance from the required 25-foot front yard setback requirement; that she purchased the home in October 2006; that Kersey Homes placed the home; that the land is graded; and that the front steps encroach the setbacks.

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. Workman, 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. Hudson, seconded by Mr. Workman, and carried unanimously that the variances be **granted since it will not alter the character of the neighborhood, since it is the minimum variance to afford relief, and that it is a unique lot.** Vote carried 5 – 0.

Case No. 9823 – Gerald Dunn and Morris Lewis- southwest of Route 54, east of Taft Avenue, being Lot 5 within Cape Windsor development.

A variance from the side yard setback requirement.

Mrs. Thibodeau presented the case. Morris Lewis was sworn in and testified requesting 0.4-foot variance from the required 15-foot side yard setback requirement and a 0.2-foot variance from the required 10-foot side yard setback requirement; that the old house was situated only 4.5-feet from the property line; that the new home is rectangular in shape; that he had never built a house on pilings before; and that the skirting is what causes the need for the variances.

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

Case No. 9824 – State of Delaware, Dept. of Tech. & Information- south of Newton Road, 200 feet east of U.S. Route 13.

A special use exception to place a communication tower, a variance from the maximum height requirement, and a variance from the setback requirements.

Mrs. Thibodeau presented the case. Jeffrey Karron, Roger Tomlinson, Bryant Baker, Paul Abadic and Jeff Martin were sworn in and testified requesting a special use exception to place a communication tower, a 200-foot variance from the required 150-foot height restriction, a 13-foot variance from the required 116.7-foot setbacks (1/3 of the height of the tower), and a 396.3-foot variance from the required 500-foot setback from a residentially zoned lot; that it would replace the existing 100-foot tower; that it would provide reliable communication on-street and in-building coverage; that height is

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necessary to provide seamless handoffs with adjacent centers and buildings; and that it is needed to make sure that first responders and other public safety entities will be able to communicate seamlessly.

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

Case No. 9825 – State of Delaware, Dept. of Tech & Information- west of Kings Highway, 1800 feet west of Kings Highway.

A special use exception to place a communication tower, a variance from the maximum height requirement, and a variance from the setback requirements.

Mrs. Thibodeau presented the case. Jeffrey Karron, previously sworn in for Case No. 9824 stated that they would like to withdraw the application at this time, as they are not prepared.

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

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that **Case No. 9825 be withdrawn and the applicant must re-pay application fee if they would like to reapply**. Vote carried 5 – 0.

Case No. 9826- Rick Quill and Susan Hudson- east of Route 268 and east of Route One, being Lot 4 within Carpenters Crossing development.

A special use exception to place a billboard and a variance from the maximum allowable signs on a billboard.

Mrs. Thibodeau presented the case. Susan Hudson was sworn in and testified requesting a special use exception to place a billboard and a variance for 2 billboards on the same sign; that she would like to put a billboard on a vacant lot; that it would provide income; that the lot may be used for future parking; and that she does not have any plans on building on the property at this time.

Melissa Jones was sworn in and testified in opposition to the application and stated that she is the owner of the adjacent property; that she feels it would attract too

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much attention and cause traffic problems; and that she would like it to see it developed commercially.

By a show of hands 3 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 special use exception be **denied since it does not meet the standards for granting a special use**. Vote carried 5 – 0.

Case No. 9827 – Robert L. Hudson- west of Popular Street, north of Sailor Road being Lots 7 and 8, Block G within Woodland Heights development.

A variance from the minimum lot size requirement and a variance from the minimum lot width requirement.

Mrs. Thibodeau presented the case. Robert Hudson was sworn in and testified requesting a 22,389-square foot variance from the required 32,670-square foot requirement and a 50-foot variance from the required 150-foot lot width requirement for a parcel; that the land was left to him by his late mother-in-law; that he would like to sell the property; and that he would like to change the shape of the lots.

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

Mrs. Thibodeau stated that the office received one letter 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. 9828 – Canal Place L.L.C.- west of Road 357, being Canal Place development.

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

Mrs. Thibodeau presented the case. Jay Hauck was sworn in and testified requesting that a temporary sales trailer be placed on the property as a sales office; that

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the trailer will measure 12' x 48'; that it will only be temporary use until a model home is built; and that it will have no kitchen.

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 one (1) year**. Vote carried 5 – 0.

Case No. 9829 – Patricia L. & Herman J. Schneider, Jr.- south of Woodland Circle, west of Elmwood Avenue East, being Lots 1 and 2 within Angola By The Bay development.

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

Mrs. Thibodeau presented the case. Herman Schneider Jr. was sworn in and testified requesting a 4-foot variance from the required 30-foot front yard setback requirement, a 4.1-foot variance from the required 20-foot rear yard setback requirement, and a 1.9-foot variance from the side yard setback requirement; that the home was built in 1997; that he would like to enclose the deck to make a sunroom; that he had a survey done and that's when the violations were discovered; that it is an undersized lot; and that the lot is adjacent to the common area.

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 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. Hudson, and carried unanimously that the

variances be **granted since it is the minimum variance to afford relief and since it will not alter the character of the neighborhood.** Vote carried 5 – 0.

Case No. 9830 – James W. Bryan, Jr.- east of U.S. Route 113, west of Road 406, being Lot A within Martha Timmons development.

A special use exception for a billboard and a variance from the separation and side yard setback requirements.

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Mrs. Thibodeau presented the case. James Bryan, Jr. was sworn in and testified requesting a 150-foot variance from the required 300-foot separation from another sign and a 22-foot variance from the required 50-foot side yard setback requirement for a sign exceeding 200-square foot; that it will be used for income purposes; that there is a storage building on the property; that there is a billboard on the adjacent property; and that it will measure 10' x 15' on each side.

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

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 taken under advisement. Vote carried 5 – 0.

At the conclusion of the public hearings, the Chairman referred back to this case. Motion by Mr. Hudson, seconded by Mr. Workman, and carried unanimously that the case be **tabled until May 21, 2007.** Vote carried 5 – 0.

Case No. 9831 – Jo Ann Evans- west of Road 431, 0.3 mile southwest of Road 329 (West Piney Grove Road).

A special use exception for a commercial dog kennel.

Mrs. Thibodeau presented the case. Jo Ann and Kenneth Evans were sworn in and testified requesting a special use exception for a commercial dog kennel on less than 5 acres; that it will be a daycare for dogs; that it will not exceed 15 dogs; that there will be no feeding; that it will be open from 7:00 a.m. – 5:30 p.m.; and that she is requesting an approval for 5 years.

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 to allow the Applicant to apply for the variances and that the filing fee be waived.** Vote carried 5 – 0.

Case No. 9832 – Cyril H. Price- south of Road 544, south of Garden Lane, being Lot 73 within Green Acres development.

A variance from the front yard setback requirement.

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Mrs. Thibodeau presented the case. Cyril and Gary Price were sworn in and testified requesting an 0.3-foot variance from the required 10-foot side yard setback requirement for an existing dwelling; that they are in the process of selling the property; that he has owned the property for 3 years; that the possible buyer requested a survey; and that when the survey was done the violations were discovered.

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.**

Case No. 9833 – George and Nicole Meringolo- west of Road 348, south of Wingate Court, being Lot 2 within Wingate development.

A variance from the front yard setback requirement.

Mrs. Thibodeau presented the case. Randall King from Miken Builders was sworn in and testified requesting a 3-foot variance from the required 30-foot front yard setback requirement; that Miken Builders built the house for the applicant; that the house was built to close to the front yard setback; and that when a survey was done the violation was discovered.

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 and that a letter be sent to Miken Builders.** Vote carried 5 – 0.

Case No. 9834 – Dennis J. and Carol M. Rose- south corner of Oceanside Drive and Bayside Drive, being Lot 19 within Seatowne development.

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

Mrs. Thibodeau presented the case. Seth Thompson, Attorney, present on behalf of the applicant, testified requesting a 0.6-foot variance from the required 10-foot side and rear yard setback requirements for an existing 3rd floor deck; that the house was built in 1997; that the deck is on the 3rd floor; that the eave to the 2nd floor was used to attach the deck which causes the encroachment; that other homes in the neighborhood have

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decks; that the home was purchased in January 2007; and that when the home was purchased a survey was done and the violation was discovered.

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

Motion by Mr. McCabe, and 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.

The Board took a 5-minute recess.

Case No. 9835 – Jack Cleveland, Jr.- north of Route 54, west of Swann Drive, being Lot 28, Block A within Swann Keys development.

A variance from the side yard setback requirement.

Mrs. Thibodeau presented the case. Jack Cleveland, Jr. was sworn in and testified requesting a 2-foot variance from the required 5-foot side yard setback requirement for a shed; that the shed has been on the property for 8 years; that the shed is in the most appropriate place on the property; and that it does not block his view or the neighbors view of the canal.

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**. Vote carried 5 – 0.

OLD BUSINESS

Case No. 9816 – Vineyards Communities, L.L.C.- north of Route 9, 3,700 feet south-west of Route One.

An 18' variance from the maximum height requirement and an 18' variance from the front, side and rear yard setback requirements.

The Board discussed the case, which has been tabled since April 16, 2007.

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

Meeting adjourned 9:15p.m.