



Board of Adjustment
Agendas & Minutes

MINUTES OF NOVEMBER 13, 2006

The regular meeting of the Sussex County Board of Adjustment was held on Monday, November 13, 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. Dale Callaway, Mr. Ronald McCabe, Mr. John Mills, Mr. Brent Workman and Mr. Jeff Hudson, with Mr. Rick Berl – Assistant County Attorney, Ms. Dawn Hudson – Secretary to the Board, Mrs. Melissa Thibodeau – Zoning Inspector, and Mrs. Jennifer 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. Hudson, seconded by Mr. Mills, and carried unanimously to approve the Minutes of October 16, 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. 9658 – Creekside Homes, Inc. – north of Route 18, 1,300 feet east of Road 320.

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

Ms. Thibodeau presented the case. Lisa and Mark Brittingham were sworn in and testified requesting a special use exception to use a manufactured home type structure as a sales office; that they are starting a new business; that they want to use one of their units as a sales center; that the unit will be used for approximately 5-years; that the unit will be a 2007 model and measure 28' x 76'; that there will be adequate parking and landscaping; and that they plan to have 5 models on the sales lot.

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

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Case No. 9659 – Donald Henderson – south of Road 302-A, east of Avalon Drive, being Lot 16, Block A within Avalon Park development.

A variance from the side yard setback requirement.

Mrs. Thibodeau presented the case. Donald Henderson was sworn in and testified requesting a 5.2-foot variance from the required 10-foot side yard setback requirement for an existing porch; that the porch has been on the property for 14-years; that he purchased the property in 2004; that the encroachment was discovered after he planted a garden on his neighbor's property; that there was no building permit obtained to build the porch; and that the neighbor's support the application.

Ms. Hudson stated that the office received a petition with 11-signatures 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, since it was not created by the Applicant, and since it is the minimum variance to afford relief**. Vote carried 5 – 0.

Case No. 9660 – Sam and Mary Hoffman – south of Route 54, east of Roosevelt Avenue, being Lot 28, Block 7 within Cape Windsor development.

A variance from the side yard setback requirement.

Mrs. Thibodeau presented the case. Charles Cohen was sworn in and testified requesting a 5-foot variance from the required 10-foot side yard setback requirement for a proposed manufactured home; that the proposed unit measures 28' x 64'; and that the unit will be placed in line with other units in the development.

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. 9661 – Rina Pellegrini and Joann Seppelt – southeast of Road 273-A, southeast of Bay View Road, being Units C-24 – C-27 within Bay Vista development.

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A variance from the front yard setback requirement.

Mrs. Thibodeau presented the case. Rina Pellegrini and Joann Seppelt were sworn in and testified requesting a 12-foot variance from the required 30-foot front yard setback requirement for a proposed set of steps; that the dwelling has to be built on pilings due to the flood zone; that the steps are needed to gain access to the dwelling; and that the steps will have a platform half way up.

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 will 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. 9662 – Harry D. and Carol Johnson – north of Road 279-A, northwest of Cannon Street, being Lot 48 within Delaware Oyster Farm development.

A variance from the front yard setback requirement.

Mrs. Thibodeau presented the case. Harry and Carol Johnson were sworn in and testified requesting a 10-foot variance from the required 30-foot front yard setback requirement for a proposed manufactured home; that they have lived on the property for 10-years; that they want to replace the existing single-wide unit with a double-wide unit; that Luv Homes advised them to apply for the variance; that the unit will be within the same footprint as the existing unit; and that the proposed unit will measure 28' x 48'.

By a show of hands 2 parties 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. McCabe, seconded by Mr. Hudson, and carried unanimously that the variance be **granted since it will enable reasonable use of the property and since it will not alter the character of the neighborhood.** Vote carried 5 – 0.

Case No. 9663 – Rubi and Carlos Campos – east of Road 225, north of Abbot Drive, being Lot 17, Block A within Eastman Heights development.

A variance from the side yard setback requirement.

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Mrs. Thibodeau presented the case. Rubi Campos and Lucy Campos were sworn in and testified requesting a 12-foot variance from the required 15-foot side yard setback requirement for a proposed attached garage; that the proposed garage will measure 24' x 24'; that the lot is too narrow to allow the garage to meet the required side yard setback requirements; that the garage cannot be built in the rear of the dwelling due to the existing septic system; that the neighbor's support the application; and that there are several lots in the development with similar garages.

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 it is necessary to enable reasonable use of the property, since the lot is unique in size, 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. 9664 – Michael F. Good – northeast of U.S. Route 113, southwest of Betts Lane, being Lot 18 within Lands of John L. Betts development.

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

Mrs. Thibodeau presented the case. Michael and Kelly Good were sworn in and testified requesting a 2,717-square-foot variance from the required 32,670-square-foot lot size requirement to place a manufactured home; that when they bid on the property the purchase was contingent on being able to place a manufactured home on the property; that they were advised that a manufactured home could be placed there; that they purchased the property, obtained the septic permit, and purchased the unit the following day; that they were issued a placement permit from the Sussex County Permit Department; and that the permit was voided by the Permit Department once the error was discovered.

By a show of hands 3 parties 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. Hudson, and carried unanimously that the variance be **granted since the error was not created by the Applicant, since it will enable reasonable use of the property, since it will not alter the character of the**

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neighborhood, and since it is the minimum variance to afford relief. The variance shall be refunded. Vote carried 5 – 0.

Case No. 9665 – Todd and Kelly Fritchman – southeast of Hebron Road, east of Harmony Road, being Lot 9, Block 1 within Shockley Subdivision.

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

Mrs. Thibodeau presented the case. Todd Fritchman was sworn in and testified requesting a 4.71-foot variance from the required 10-foot side yard setback requirement, a 5.29-foot variance from the required 10-foot side yard setback requirement and a 5-foot variance from the required 10-foot rear yard setback requirement for an existing building; that Merestone staked the boundary lines for the property; that Meridian staked out the location for the building; that the property was purchased as a commercial building lot; that the property is zoned General Residential; that the building has been granted a front yard variance; that the Planning & Zoning Commission approved the site plan for the commercial building; that the previous owner had changed the zoning to General Residential to place manufactured homes on the site; that the surrounding properties are all zoned Commercial; and that they have applied for a Conditional Use through Planning & Zoning.

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 variances be **granted since it meets the standards for granting a variance.**

Vote carried 5 – 0.

Case No. 9666 – Richard Dorber – north of Route 22, south of Flagship Drive, being Lot 45 within Long Neck Village Mobile Home Park.

A variance from the maximum allowable lot coverage requirement in a mobile home park.

Mrs. Thibodeau presented the case. Richard Dorber was sworn in and testified requesting a 104.83-square-foot variance from the 35% maximum allowable lot coverage requirement in a mobile home park; that the Applicant obtained all required building permits and Certificate of Compliances for the improvements; that the encroachment was discovered at settlement; and that the Applicant has moved to Texas for health reasons.

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

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

Case No. 9667 – Taylor Dickerson, Jr. and Joyce Saville – east of Route One, 50 feet north of State Line Road, being Lot 18, Section AA within L.P. Faucett development.

A variance from the side yard setback requirement and a variance for additional wall signs.

Mrs. Thibodeau presented the case. Taylor Dickerson and Ernest Emerson were sworn in and testified requesting a 15-foot variance from the required 20-foot side yard setback requirement for a sign and a variance for additional wall signs; that they moved the sign for safety reasons; that the fence that was installed by the adjacent property owner restricts the ability for customers to turn around on the site; that all the signs have been on the property for a number of years; and that he plans to build a new building.

Clinton Bunting was sworn in and testified in opposition to the application and stated that he owns the adjacent property; that there are too many signs on the property; that he feels the owner should comply with the Zoning Ordinance; and that he believes his fence is in compliance.

Steve Smith was sworn in and testified in opposition to the application and stated that he owns the adjacent property and that he feels the sign is too close to his property.

In rebuttal, Ernest Emerson, stated that he will remove all the existing wall signs on the building; and that the fence blocks most of the signage.

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

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. McCabe, seconded by Mr. Hudson, and carried unanimously that the variance be **granted for the ground sign and that there only be one wall sign**. Vote carried 5 – 0.

Case No. 9668 – Barbara A. and George W. Plummer, III – southwest of Route One, north of Salisbury Street, being Lot G-15 within Seabreeze Development.

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

Ms. Thibodeau presented the case. George Plummer was sworn in and testified requesting a 1-foot variance from the required 10-foot side yard setback requirement, a 1-foot variance from the required 10-foot rear yard setback requirement for a proposed addition, and a 0.7-foot variance from the required 30-foot front yard setback requirement for an existing porch; that the survey they had done for the proposed addition showed the encroachment of the porch; that the property owners support the application; and that they thought the setback requirements of the development would supercede the County setback requirements.

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

Case No. 9669 – NV Homes – intersection of Road 357 and Road 359.

A special use exception to place an off-premise sign.

Mrs. Thibodeau presented the case. Tim Sopko was sworn in and testified requesting a special use exception to place an off-premise sign; that they obtained permission from the property owner to place the sign; that they were not aware they needed the Board's approval; that they removed the sign pending the hearing; that he did place a banner type sign on the property and a banner on the side of a truck pending the hearing; that he was not aware this was not permitted through the County; that the community is located at the end of a dead end road; and that they will need the sign for approximately 6-months.

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. 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. Workman, and carried unanimously that the special use exception be **granted with the stipulation that the sign may not be placed**

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on the property until 30-days after the signs in violation are removed and inspected by the Zoning Inspector, and that the off-premise sign must be removed after a period of six (6) months. Vote carried 5 – 0.

Case No. 9670 – Louis Capano & Assoc. – northwest of Road 274, 1,352 feet northeast of Road 275, being within Sterling Crossing development.

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

Mrs. Thibodeau presented the case. Beau Britt 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 43'; that they will need the unit for approximately 7-months; that they have obtained the building permit for the model home; and that there will be adequate parking and the lot will be landscaped.

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 exception be **granted for a period of one (1) year since it will have no substantial effect to the neighborhood.** Vote carried 5 – 0.

Case No. 9671 – Kentmere Builders – northwest of Road 16, southeast of Arizona Avenue, being Lot 29, Block N, Section 1 within North Shores development.

A variance from the side yard setback requirement.

Mrs. Thibodeau presented the case. Vincent Kerrigan was sworn in and testified requesting a 0.1-foot variance from the required 10-foot side yard setback requirement for an existing dwelling; that the dwelling was built on pilings; that due to the size of

pilings and how straight they are driven into the ground varied the exact placement of the dwelling; that they needed to build the dwelling close to the side yard setback line to stay out of the existing wetlands on the property; and that the property owners in the development support the application.

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

Ms. Hudson stated that the office received 1 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.**

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Vote carried 5 – 0.

Case No. 9672 – Brenda and Lee Mumford – south of Route 54, west of Hidden Acres Drive, being Lot 51 within Hidden Acres development.

A variance from the side yard setback requirement.

Mrs. Thibodeau presented the case. Brenda and Lee Mumford were sworn in and testified requesting a 2-foot variance from the required 10-foot side yard setback requirement for a proposed manufactured home; that the existing unit measures 14' x 76'; that the proposed unit will measure 26' x 76'; that the existing septic system interferes with the proposed unit complying with the required setback requirements; that to replace the septic would be very costly and they would be required to install a mound system that would take up the entire yard; that the unit will be placed on a block foundation; and that the unit will be classified as a C-Grade dwelling.

Jennifer and Greg Hughes were sworn in and testified in opposition to the application and stated that they own the adjacent property; that they are concerned how the variance will effect the placement of their well and septic system; and that their proposed dwelling will be 10-foot from their property line.

In rebuttal, Brenda and Lee Mumford, stated that there will only be a set of steps for the back door on their neighbor's side of the property, and that the air-conditioning unit will be on the opposite side of the unit.

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

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the case be **left open to allow the opposition to review the application and report to the office in one week.** Vote carried 5 – 0.

OLD BUSINESS

Case No. 9633 – County Bank – south of Route One, 1,350 feet east of Road 271.

A variance from the minimum parking space requirement, a variance from the minimum loading space requirement, and a variance from the minimum buffer requirement.

The Board discussed the case which has been tabled since October 2, 2006.

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Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variances be **granted for a reduction in parking spaces to 210-parking spaces and that the variance from the landscape buffer be denied**. Vote carried 5 – 0.

Case No. 9655 – Mack K. and Joan M. Smith – north of Route 26, 3,280 feet east of Road 25.

A variance from the minimum lot width requirement for a parcel, a variance from the minimum lot size, and a variance from the minimum acreage requirement to place a manufactured home.

The Board discussed the case which has been tabled since October 16, 2006.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variances be **granted with the stipulation that once construction is completed and the old dwelling is torn down the properties will be combined together unless prohibited by the Planning & Zoning Department**. Vote carried 5 – 0.

OTHER BUSINESS

Case No. 9635 – Angela Lynn Savage and Dwaine Porter – east of Road 600, .58 mile southeast of Road 599, being Lot 9 within JB & AL Ltd. Lands.

A variance from the side yard setback requirement.

Ms. Hudson read a letter from the Applicant requesting a rehearing.

Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously that the request for a rehearing be **granted and that the application fee be paid by the Attorney**. Vote carried 5 – 0.

Case No. 9632 – Barbara and Matthew Delaney – southeast of Route 22, south of White Heron Road, being Lot 516 within Pot Nets Bayside Mobile Home Park.

A variance from the side yard setback requirement.

Ms. Hudson read a letter from the Applicant requesting a rehearing.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the request for a rehearing be **granted and that the Applicant be required to pay the fee.** Vote carried 5 – 0.

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Case No. 9231 – Richard K. and Judith S. Johnson – south of Route 54, south of Tyler Avenue, being Lot 23, Block 5 within Cape Windsor development.

A variance from the side yard setback requirement.

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

Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously that the request for a time extension be **granted for a period of one (1) year.** Vote carried 5 – 0.

Meeting Adjourned 9:22 p.m.