

MINUTES OF NOVEMBER 14, 2005

The regular meeting of the Sussex County Board of Adjustment was held on November 14, 2005, 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. 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 Agenda as circulated. Vote carried 4 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to table the approval of the Minutes of November 7, 2005 until November 21, 2005. Vote carried 4 – 0.

Mr. Berl read a statement explaining how the Board of Adjustment meeting is conducted and the procedures for hearing the cases.

Case No. 9279 – Preston's Millsboro Auto Mart – northeast of Route One, 1,800 feet northwest of Road 271.

A special use exception for a car sale display.

Ms. Hudson presented the case. Chris Shaffner was sworn in and testified requesting a special use exception for a car sale display; that the display will be a test market for used cars in the area; that there will be approximately 75 to 90 cars on display; that the sale will be held in March 2006; that the sale will not exceed 5-days; that there will be a portable construction trailer and tent used to conduct the sales of the vehicles; and that he will provide the number of parking spaces on the site.

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 case be **left open to allow the Applicant to provide the Board with the number of parking spaces available and for the Counsel to provide direction to the Board in reference to the sales trailer and tent.** Vote carried 4 – 0.

Case No. 9280 – Leo and Stephanie VanDenbulk – northeast of Route 22, east of Bayview Lane, being Lot 54 within Rehoboth Shores Mobile Home Park.

A variance from the rear yard setback requirement.

Ms. Hudson presented the case. Leo and Stephanie VanDenbulk were sworn in and testified requesting a 2-foot variance from the required 5-foot rear yard setback requirement for an existing shed; that the shed measures 12'x 12'; that the shed has been on the lot for 14-years; that he purchased the property 1-year ago; that there is a water main in front of the shed; that the shed is on a concrete slab; and that the encroachment was discovered due to the construction of a fence between the properties.

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 will not alter the character of the neighborhood, was not created by the Applicant and is a minimum variance to afford relief.**

Vote carried 4 – 0.

Case No. 8281 – W. Dean and Margaret E. Wilcox – east of Road 350, south of Denton Woods Road, being Lot 79 within Denton Woods development.

A variance from the front yard setback requirement.

No one appeared on behalf of the application.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be **denied due to lack of record of support.** Vote carried 4 – 0.

Case No. 9282 – Leahbelle Chilcoate and Stephanie Downs – east of Road 346, west of Sylvan Vue Drive, being Lot 19, Section 2 within Blackwater Cove development.

A variance from the front yard setback requirement.

Ms. Hudson presented the case. Stephanie and James Downs were sworn in and testified requesting a 5-foot variance from the required 30-foot front yard setback requirement for a proposed dwelling; that approximately half the property is wetlands; that the variance will allow them to build a larger dwelling in character with the neighborhood; that the dwelling will be approximately 2,600-square-foot; and that they submitted a survey.

Alexander Slonin was sworn in and testified in support of the application; that he had no objection to the variance; and that his only concern was for the sewage disposal.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the case be **left open to allow the Applicant to provide a more specific drawing and to be certain whether a second variance will be needed**. Vote carried 4 – 0.

Case No. 9283 – Bayside Homes – east of Route One, north of Colonial Lane, being Lot 6 within Colonial East Mobile Home Park.

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

Ms. Hudson presented the case. Ryan Class was sworn in and testified requesting a 7.9-foot variance from the required 20-foot separation requirement between units in a mobile home park; that the shed measures 8'x 10'; that the lot size is 41'x 87'; that the unit on the lot measures 20'x 60'; that the shed cannot be located to the rear of the unit due to a water meter; that they were not aware of the water meter when the unit was placed; that the community requires each lot to have an 8'x 10' shed; and that he 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 to take the case under advisement. Vote carried 4 – 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 variance be **denied since it does not meet the standards for granting a variance**. Vote carried 4 – 0.

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 presented the case. Michael and Mary Grouke were sworn in and testified requesting a 2-foot variance from the required 20-foot separation requirement between units in a mobile home park; that they want to replace the existing unit which measures 12'x 63'; that the proposed unit will measure 28'x 66'; that the lots are approximately 50-foot wide; that the unit will not meet the separation requirement from the neighboring porches; that they do not know the length of the lot; that they do not know if they will meet the setback requirements; that the lot lines are not marked; and that the neighbors have no objection to the application.

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 **left open until the lot lines are defined**. Vote carried 4 – 0.

Case No. 9285 – William Sockolosky – south of Road 454A, 1,129 feet west of U.S. Route 13.

A variance from the front yard setback requirement.

Ms. Hudson presented the case. William Sockolosky, Robert Sigler and Troy McDaniels were sworn in and testified requesting a 7.6-foot variance from the required 40-foot front yard setback requirement for an existing manufactured home; that a survey was done to determine the placement of the unit; that the surveyor only made reference to the side yard setback requirement; that the front yard setback was not measured prior to the placement of the unit; that the unit was placed within the same footprint as the previous dwelling; that the previous dwelling was over 100-years old; that the previous dwelling burnt down; and that the unit is connected the existing septic system.

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 case be taken under advisement. Vote carried 4 – 0.

At the conclusion of the public hearings, the Chairman referred back to this case. Motion by Mr. Hudson, seconded by Mr. Mills, and carried unanimously that the variance be **granted**. Vote carried 4 – 0.

Case No. 9286 – Glenn and Regina Brenneman – south of Road 312A, south of Point View Road, being Lot 21 within Isaac Harmon Lots development.

A variance from the side yard setback requirement.

Ms. Hudson presented the case. Glenn Brenneman was sworn in and testified requesting a 5-foot variance from the required 15-foot side yard setback requirement for a proposed dwelling; that he purchased the property in January 2005; that due to an unimproved road his property is considered a corner lot; that he was given the wrong setbacks prior to ordering his dwelling; that the road is not improved and there is a tree growing in the middle of what would be the road; that his attorney stated to him that there

is no recordation in reference to the ownership of the said road; and that he 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. Workman, and carried unanimously that the variance be **granted since it meets all the standards for granting a variance**.
Vote carried 4 – 0.

Case No. 9287 – Hurban E. and Josephine Santerre – southwest of Route 18, 1,400 feet east of Road 561.

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

Ms. Hudson presented the case. Hurban and Josephine Santerre and Angela Francisco were sworn in and testified requesting a special use exception to place a manufactured home on a medical hardship; that the proposed unit will measure 27'x 68'; that they need someone nearby to help with their care; that the property will always remain in the family; and that they are in the process of subdividing the property.

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. Workman, and carried unanimously that the special use exception be **granted for a period of two (2) years since it will not alter the character of the neighborhood**. Vote carried 4 – 0.

Case No. 9288 – Anthony Bright – corner of Road 265 and Red Mill Drive, being Lot C-7 within Mill Pond Acres development.

A variance from the minimum square footage requirement for a parcel.

Ms. Hudson presented the case. Anthony Bright was sworn in and testified requesting a 5,625-square-foot variance from the required 20,000-square-foot minimum requirement for a parcel; that he wants to subdivide an existing lot in the development; that the Planning & Zoning Commission approved the subdivision of the lot; and that the proposed dwelling will meet the required setback requirements.

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 4 – 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 variance be **denied since it does not meet the standards for granting a variance**. Vote carried 4 – 0.

Case No. 9289 – Sea Air Mobile City – south of Route One, south of Dodd Avenue, being within Sea Air Mobile City Mobile Home Park.

A special use exception to place a manufactured home in the camper section of a mobile home park.

Ms. Hudson presented the case. John Cates was sworn in and testified requesting a special use exception to place a manufactured home in the camper section of a mobile home park; that the park wants to remove the camping section from the park; that the previous manager did not follow the proper procedure to change the camping area; that the Zoning Inspector advised the park they would need to apply for a Conditional Use to convert the lots; that the Director of Planning & Zoning advised the park they would need a 50-foot buffer between the properties; that two of the units are on mobile home park lots; that the one unit is on a camp site; and that he is currently working with a surveyor to define the lot lines in the park.

Jeanne Sisk was sworn in and testified in opposition to the application and stated that the first unit is a camper; that they have sold one unit; that the lots are so small it is difficult to place a camper on the lots; and that she submitted pictures.

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

By a show of hands 6 parties appeared in opposition to the application.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the case be **left open until the lot lines can be determined**. Vote carried 4 – 0.

The Board took a recess for 5-minutes.

Case No. 9290 – Dolores R. Niblett – south of Bay Road, southeast of Mallard Road being Lot 496 within Pot Nets Bayside Mobile Home Park.

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

No one appeared on behalf of the application.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be **denied due to lack of record of support**. Vote carried 4 – 0.

Case No. 9291 – Estate of Jeffery M. Derr – north of Road 459, 430 feet east of Road 62.

A variance from the side yard setback requirement.

Ms. Hudson presented the case. Richard and Patricia Derr were sworn in and testified requesting an 11.5-foot variance from the required 15-foot side yard setback requirement for an existing dwelling; that they are the Executors of the Estate; that their son built the dwelling; that their son died in May 2005; that the dwelling was completed by his employees; that they have not been able to contact the surveyor; that they hired a surveyor to survey the property; that their surveyor found stakes on the property and, he could not determine what they were for; that the septic system is on the opposite side of the dwelling; that the property adjacent to the requested variance side is currently vacant; and that they need to obtain the Certificate of Compliance to settle their son's estate.

Bruce Kenney, Jr. was sworn in and testified in opposition to the application and stated that his property was surveyed; that he approached Jeffery Derr in reference to the property lines prior to construction; that the measurements were off and he could use his property markers for reference; that Jeffery Derr continued the construction and never had a survey done; and that he has no problem with the appearance of the dwelling.

Bruce Kenney, Sr. was sworn in and testified in opposition to the application and stated that he feels the problem should be corrected; and that a portion of the attached garage can be removed.

Faith Richardson was sworn in and testified in opposition to the application and stated that she was concerned the variance would effect the placement of any future structures on her property; and that she feels a portion of the garage should be removed.

In rebuttal, Patricia Derr, stated that she apologizes for her son; and that they were unaware of any circumstances surrounding this property.

By a show of hands 4 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 4 – 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**. Vote carried 4 – 0.

Case No. 9292 – Allan Johnson – east of Road 79, 480 feet west of Road 540.

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

Ms. Hudson presented the case. Allan Johnson was sworn in and testified requesting a special use exception from the provisions and requirements to retain a manufactured home on a parcel; that he wants to subdivide the property; that he plans to build a dwelling on the property; that his daughter will be moving in the existing manufactured home; that there has been a manufactured home on the property for approximately 15-years; and that they plan to remove the manufactured home in the future and build a dwelling on that parcel.

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

Motion by Mr. Hudson, seconded by Mr. Workman, and carried unanimously that the case be taken under advisement. Vote carried 4 – 0.

At the conclusion of the public hearing, 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 for a period of five (5) years**. Vote carried 4 – 0.

Case No. 9293 – Patrick Firor – south of Route 54, east of Keen-Wik Road, being Lot 15 and south ½ of Lots 17 and 13 within Keen-Wik Subdivision.

A variance from the minimum lot width and square footage requirements for parcels.

Ms. Hudson presented the case. Patrick Firor was sworn in with Robert Robertson, Attorney, present on behalf of the application and testified requesting a 50-foot variance from the required 100-foot road frontage requirements and a 5,000-square-foot variance from the required 10,000-square-foot lot size requirement for two lots; that he wants to create two 50'x 100' lots; that he currently owns one 50-foot wide lot and 25-

foot of a lot and 25-foot of a second lot; that the request is needed because he is not dividing the property using the original lot lines; that they will relocate the existing dwelling; that the neighbors are in support of the application; and that the President of the Homeowner's Association is in support of the application.

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 4 – 0.

Meeting Adjourned 9:50 p.m.