

## MINUTES OF NOVEMBER 21, 2005

The regular meeting of the Sussex County Board of Adjustment was held on Monday, November 21, 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. 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 with the correction to remove Case No. 9275 – Kelco Partnership DBA Verizon Wireless since it was supposed to be on the December 5, 2005 Agenda. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of November 7, 2005 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. 9294 – M. Michael Massumi** – east of Road 357, 680 feet south of Road 360.

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

Ms. Hudson presented the case. Maureen Murphy was sworn in and testified requesting a 98.02-foot variance from the required 150-foot lot width requirement for Lot A, a 13.8-foot variance from the required 150-foot lot width requirement for Lot B and a .23-acre variance from the required 0.75-acre parcel requirement for Lot A; that the existing garage will be removed; that the existing dwelling will remain on Lot A; that there is currently a temporary office unit on the property; that when the unit is removed he plans to build a dwelling on Lot B; that the proposed subdivision will not alter the character of the neighborhood; that the lot is unique in shape; and that they have approval from DelDOT.

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 **denied since it does not meet the standards for granting a variance**. Vote carried 5 – 0.

**Case No. 9295 – John H. Parker, Sr.** – 950 feet south of Road 501, 2,700 feet west of Route One, being Lot 89 within Rock Turn Mobile Home Park.

A special use exception to build a dwelling in a mobile home park.

Ms. Hudson presented the case. John H. Parker, Sr. was sworn in and testified requesting a special use exception to build a dwelling in a mobile home park; that he entered a contract to build on the property in December 2004; that he plans to build a dwelling on the lot for his retirement years; that in September 2004 he obtained a letter from the Planning & Zoning Department verifying that the zoning would permit a stick built home; that he has obtained the building permits; and that the neighbors and the property owner have no objection to the application.

Joseph Mata was sworn in and testified in support of the application and stated that he is the adjacent lot owner; and that he has no objection to 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. McCabe, seconded by Mr. Hudson, and carried unanimously that the special use exception be **granted since it will have no adverse effect to the neighborhood**. Vote carried 5 – 0.

**Case No. 9296 – Ellsworth and Joan Sletto** – east of Road 350, 400 feet south of Wilmington Avenue, being Lot 55, Section E. within Banks Acres development.

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

Ms. Hudson presented the case. Ellsworth Sletto was sworn in and testified requesting a 3.6-foot variance from the required 5-foot side yard setback and a 12.4-foot variance from the required 40-foot front yard setback requirement for a proposed carport; that the carport will measure 21'x 22'; that he will use the carport to store his cars; that the existing garage is used for a workshop and recreational room; and that the existing shed is for storage.

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 variances be **granted since it will not alter the character of the neighborhood and since there have been other variances granted in the development**. Vote carried 5 – 0.

**Case No. 9297 – Pete Fazio, William Lofland and Mary Lofland** – west of Road 229B, 198 feet north of Road 227, being Parcel C.

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

Ms. Hudson presented the case. Pete Fazio, William Lofland and Audrey Craft were sworn in and testified requesting a 100-foot variance from the required 150-foot lot width requirement for a parcel; that they want to subdivide the parcel; that they plan to build two dwellings on the property; that the chicken houses will be removed; that the parcel has 266-foot of road frontage; and that they have no objection to a combined driveway.

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 with the stipulation that they have a combined driveway since it meets the standards for granting a variance**. Vote carried 5 – 0.

**Case No. 9298 – Long Neck Shores Associates, LLC** – east of Road 298, 700 feet southeast of Road 299, within Long Neck Shores development.

A variance from the maximum allowable height requirement for a structure.

Ms. Hudson presented the case. Preston Dyer was sworn in and testified requesting a 16-foot variance from the required 42-foot maximum allowable height requirement for a structure; that the proposed structure will be a clubhouse for the development; that the building will be 4,600-square-foot in size; that the building will be used for community meetings; that the variance is needed for the cupola; that there will be no occupancy within the cupola; that the cupola is for aesthetic purposes only; and that a similar variance was granted for the clubhouse in Paynter's Mill.

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 meets the standards for granting a variance**. Vote carried 5 – 0.

**Case No. 9299 – Grizzly's Landscape Supply** – northwest of Route 24, 2,800 feet northeast of Love Creek.

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

Ms. Hudson presented the case. Richard Pack was sworn in and testified requesting a special use exception to place a manufactured home type structure as a sales office; that he has been in business for 25-years; that he wants to relocate his business to the proposed location; that he plans to combine his business with the existing business on the property; that the unit will be used for bookkeeping and marketing of the business; that the unit will measure 12'x 60'; that there will be approximately 4-employees; that he would like to use the unit for 5-years; and that he submitted pictures.

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 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.

**Case No. 9300 – Audrey Joensen** – south of Route 54, north of Grant Avenue, being Lot 60, Block 6 within Cape Windsor development.

A variance from the side yard setback requirement.

Ms. Hudson presented the case. Doug Joensen was sworn in and testified requesting a 4.5-foot variance from the required 10-foot side yard setback requirement for a proposed dwelling and an 8.5-foot variance from the required 10-foot side yard setback requirement for a set of steps and air conditioning unit; that the proposed unit can meet the setback requirements; that the unit needs the variance to be in character with the neighborhood; that the variance will allow for parking along the side of the unit; that the steps on the side of the requesting variance are for emergency purposes only; and that the Homeowner's Association is 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 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. 9301 – Cassell and Edna Thomas** – south of Route 20, 3,600 feet west of Road 485.

A special use exception for a day care center.

Ms. Hudson presented the case. Richard and Gloria West were sworn in and testified requesting a special use exception for a day care center; that she currently operates a day care center on the adjacent property; that the request is to expand her day care; that her son will run the proposed day care center; that her uncle owns the property; that she currently cares for 14-children, 7-days a week, 24-hours a day; that the proposed day care will be the same; and that his license is pending the decision of the Board.

Ms. Hudson stated that the property owner called the office concerned that she did not approve of the application.

Ms. Hudson stated that she tried numerous times to contact the Applicant prior to the hearing.

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

Motion by Mr. Workman, seconded by Mr. McCabe, and carried unanimously to take the case 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 case be **left open to allow for a report from the office staff**. Vote carried 5 – 0.

**Case No. 9302 – Ryan Homes** – south of Road 358, north of Sandy Trap Drive, within Sandy Cove development.

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

Ms. Hudson presented the case. Darlene Gray 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 56'; that the unit will be landscaped; that the unit is currently used in another community; and that the use is needed for approximately 6 to 9 months.

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. 9303 – Elton Ray Beauchamp** – west of U.S. Route 13, 700 feet east of Road 64.

A variance from the front yard setback requirement.

Ms. Hudson presented the case. Elton Ray Beauchamp was sworn in and testified requesting a 10-foot variance from the required 60-foot front yard setback requirement for a proposed addition; that the proposed addition will measure 40'x 80'; that the existing building was built to meet the 40-foot front yard setback requirement; that the County has changed the front yard setback requirement; that the existing building is 50-foot from the front yard property line; that the existing septic system is in the rear of the building; and that there will be adequate parking.

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 5 – 0.

**Case No. 9304 – Mary E. and William Stanley Roper, III** – northeast of Road 357, southwest of Taylor Drive, being Lot 10 within Collins Park development.

A variance from the side yard setback requirement.

Ms. Hudson presented the case. William Roper was sworn in and testified requesting a 3-inch variance from the required 10-foot side yard setback requirement for an existing shed; that he had already started construction when the encroachment was discovered; that he is not sure how or when the mistake was made; that he originally measured the lot; and that he submitted pictures.

Judith Whitt was sworn in and testified in opposition to the application and stated that she feels the building is too large for a mobile home park; that the building was completed prior to this hearing; and that the Homeowner's Association was unaware of the construction of the building.

Richard McDaneil was sworn in and testified in opposition to the application and stated that the building was over 50% complete before he applied for the variance; that

they have connected the building to another building on the property; and that he feels the building should be made to comply with the required setbacks.

David and Katherine Mastrota were sworn in and testified in opposition to the application and stated that they own the adjacent property; that the building does not comply with community's requirements; that concrete was poured after the variance was applied for; that no survey was done prior to construction; and that they submitted pictures.

In rebuttal, William Roper, stated that a Planning & Zoning inspector advised him that any construction done prior to the variance hearing was at his own risk; and that he did submit plans of the building to the Homeowner's Association.

In rebuttal, Richard McDaniel, stated that the letters the office received in opposition are not the same people in attendance of the hearing.

In rebuttal, William Roper, stated that the 10-letters in support of the application represent 17-lots in the development.

In rebuttal, Katherine Mastrota, stated that one of the owner's in support of the application owns numerous lots in the development; and that she does not live in the development.

Ms. Hudson stated that the office received 10-letters in support of the application.

Ms. Hudson stated that the office received 6-letters in opposition to the application.

The Board found that 5-parties appeared in opposition to the application.

Motion by Mr. McCabe to approve the application .

Motion by Mr. McCabe to withdraw his motion.

Motion by Mr. McCabe, seconded by Mr. Hudson, and carried unanimously to **table the case until December 5, 2005**. Vote carried 5 – 0.

**Case No. 9305 – Carl Lynn** – north of Route 54, south of Swann Drive, being Lot 10 within Swann Point development.

A variance from the side yard setback requirement.

Ms. Hudson presented the case. Carl Lynn was sworn in and testified requesting a 5-foot variance from the required 10-foot side yard setback requirement for an existing attached shed; that he is a new resident to the County; that the development approved his plans for the construction; that he was unaware of any encroachment until he applied for the Certificate of Compliance; that the shed is only attached by shingles; and that he submitted a drawing.

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 have no adverse effect to the neighborhood**.  
Vote carried 5 – 0.

**Case No. 9306 – Doug and Stacy Scott** – south of Road 64, east of North Scottsdale Road, being Lot 24 within Scottsdale 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 the lack of a record of support**. Vote carried 5 – 0.

**Case No. 9307 – Edward Clark, III** – south of Road 277, west of Elmwood Avenue, being Lots 17 and 18, Block C, Section 1 within Angola By The Bay development.

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

Ms. Hudson presented the case. Edward Clark, III was sworn in and testified requesting a 1-foot variance from the required 30-foot front yard setback requirement and a 1-foot variance from the required 5-foot rear yard setback requirement; that he purchased the property in 2003; that the dwelling and shed already existed on the property; that the first survey showed the encroachments but went unnoticed; that the property is now being sold; that the survey done for settlement raised the issue of the encroachment; and that he has made no changes to the property since his purchase.

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

**Case No. 9308 – Lorne L. Breasure** – southeast of Road 321, 533 feet southwest of Road 323, being Parcel B.

A special use exception for a golf driving range.

Ms. Hudson presented the case. Loren Breasure was sworn in and testified requesting a special use exception for a golf driving range; that the property is approximately 8-acres; that the hours of operation will be 8:00 a.m. until dusk; that he may install lights in the future; that he will be open 7-days a week; that he will be closed for the months of December, January, and February; that there will be an 18'x 12' building on the property; and that the neighbors have no objection to 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. Hudson, seconded by Mr. McCabe, and carried unanimously that the special use exception be **granted for a period of five (5) years since it will have no adverse affect to the neighborhood**. Vote carried 5 – 0.

### **OLD BUSINESS**

**Case No. 9227 – Richard Stapleford** – north of Route 54, west of unnamed road, being Lot 2 within Mason Dixon Annex Mobile Home Park.

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

The Board discussed the case which has been tabled since September 19, 2005.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the variances be **denied since the property lines cannot be determined**.  
Vote carried 5 – 0.

**Case No. 9255 – Bijan Sistani** – southwest of Route 54, west of Madison Avenue, being Lot 152 within Edgewater Acres development.

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

The Board discussed the case which has been tabled since October 17, 2005.

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

**Case No. 9259 – Ralph Lopez** – north of Route 54, east of Blue Teal Road, being Lot 25, Block B within Swann Keys development.

A variance from the side yard setback requirement.

The Board discussed the case which has been tabled since October 17, 2005.

Motion by Mr. McCabe, seconded by Mr. Hudson, and carried unanimously that the variance be **granted since it will have no adverse effect to the neighborhood**.  
Vote carried 5 – 0.

**Case No. 9270 – Hassell LLC and John D. Lauer, Jr.** – west of Route One, south of Hassell Avenue Extended, being Lot 77, 2<sup>nd</sup> Addition within Bayview Park development.

A variance from the side yard setback requirement.

The Board discussed the case which has been tabled since November 7, 2005.

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.

### **OTHER BUSINESS**

**Case No. 8797 – Sea Colony Recreational Association** – east of Pennsylvania Avenue, east of Jefferson Bridge Road, being Sea Colony Phase I, II, III, IV, V, VI and VII.

A variance from the minimum size requirement for a parking space.

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 time extension be **granted for a period of one (1) year**. Vote carried 5 – 0.

**Meeting Adjourned 9:20 p.m.**