



Board of Adjustment

Agendas & Minutes

MINUTES OF NOVEMBER 7, 2005

The regular meeting of the Sussex County Board of Adjustment was held on November 7, 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 Revised Agenda as circulated. Vote carried 4 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of September 17, 2005 as circulated. Vote carried 4 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of September 19, 2005 as circulated. 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. 9264 – Joyce and Michael Deckelman, Jr. – north of Route 54, west of Canvasback Road, being Lot 42, Block D within Swann Keys development.

A variance from the side yard setback requirement.

Ms. Hudson presented the case. Michael Deckelman was sworn in and testified requesting a 2-foot variance from the required 10-foot side yard setback requirement for a chimney and a 0.3-foot variance from the required 5-foot side yard setback requirement for steps; that he was granted a variance for the unit in April 2005; that he neglected to include the chimney and the steps in the previous request; and that the Homeowner's Association has no objection to the application.

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. Workman, and carried unanimously that the variances be **granted since it will not alter the character of the neighborhood and is a minimum variance to afford relief**. Vote carried 4 – 0.

Case No. 9265 – Karl and Lori Brown – north of Road 48, 793 feet west of Route 30.

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

Ms. Hudson presented the case. Karl and Lori Brown were sworn in and testified requesting a 909-square-foot variance from the required 32,670-square-foot requirement for both parcels and a 10.15-foot variance from the required 150-foot lot width requirement for both parcels; that they purchased the property in February 2004; that there is a existing daycare center on the property; that due to the daycare they cannot obtain a residential loan; that the daycare owners would like to purchase the property; and that they will either relocate the existing dwelling or remove it within a year.

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. Mills, and carried unanimously that the variances be **granted since it is a minimum variance to afford relief and since it is a unique situation that was not created by the Applicant and with the stipulation that the dwelling be relocated or removed within one (1) year**. Vote carried 4 – 0.

Case No. 9266 – Louis T. Demarco – east of Road 279, south of Cedar Drive, being Lot I-119 within West Bay Mobile Home Park.

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

Ms. Hudson presented the case. Louis Demarco was sworn in and testified requesting a 10-inch variance from the required 20-foot separation requirement between units and a 7.4-foot variance from the required 20-foot separation requirement between units in a mobile home park; that he built a lean to on an existing shed; that park manager did not advise him that he needed any permits or of the setback requirements; and that he has owned the unit for one year.

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 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 4 – 0.

Case No. 9267 – David C. Fanelli – south of Road 341-B and east of Poole Court, being Lot 226 within Dogwood Acres development.

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A variance from the front yard setback requirement.

Ms. Hudson presented the case. David Fanelli was sworn in and testified requesting a 10-foot variance from the required 40-foot front yard setback requirement for a through lot and a 5-foot variance from the required 20-foot rear yard setback requirement for a proposed dwelling; that he purchased the property in June 2005; that he removed the existing single-wide unit and the additions; that his proposed dwelling will measure 26' x 50'; that the existing septic system prevents the dwelling from being placed elsewhere on the property; and that the neighbors support 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. Hudson, and carried unanimously that the variances be **granted since it meets the standards for granting a variance**. Vote carried 4 – 0.

Case No. 9268 – Jeffrey and Kathy Wilms – southeast of Road 31, 750 feet southwest of Road 573.

A variance from the side yard setback requirement.

Ms. Hudson presented the case. Kathy Wilms was sworn in and testified requesting a 0.5-foot variance from the required 15-foot side yard setback requirement for a manufactured home; that the manufactured home was placed in April 2005; that Briarwood Homes set the unit on the property; that the existing dwelling is being used for storage only; that the kitchen has been removed from the existing dwelling; and that she is not sure when or if they will remove the dwelling.

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. Workman, seconded by Mr. Hudson, and carried unanimously that the variance be **granted**. Vote carried 4 – 0.

Case No. 9269 – Richard and Joyce Gardner – north of Route 22, north of Sussex Lane, being Lot B16G within Mariners Cove Mobile Home Park.

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

Ms. Hudson presented the case. Joyce Gardner and Donnie Culver were sworn in and testified requesting a 5-foot variance from the required 15-foot separation requirement between units in a mobile home park for an existing deck; that he built the deck for the Applicant; that he measured for the deck with the park personnel; that it is his garage the deck is encroaching; and that the garage was there when he purchased the unit.

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 will not alter the character of the neighborhood and since it is the minimum variance to afford relief**. Vote carried 4 – 0.

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

A variance from the side yard setback requirement.

Ms. Hudson presented the case. John Lauer, John Hendrickson and Lawrence Long were sworn with Ken Feister, Attorney, present on behalf of the application and testified requesting a 3.7-foot variance from the required 15-foot side yard setback requirement for an existing dwelling; that an error was made during the construction of the dwelling; that the encroachment was discovered when the final as-built survey was completed; that the Board of Directors have no objection to the application; that the encroachment does not interfere with vision at the intersection; and that he submitted pictures, letters and surveys.

Ms. Hudson stated that the office received 1 letter in opposition to the application.

Ms. Hudson stated that the office received 14-letters in support of the application.

By a show of hands 4 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 case be taken under advisement. Vote carried 4 – 0.

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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 case be **tabled until November 21, 2005**. Vote carried 4 – 0.

Case No. 9271 – Roberta Jean and Michael T. Franks – southeast of Road 36, 300 feet northeast of Road 44, being Lot 8 within William Donald Clifton, II development.

A variance from the side yard setback requirement.

Ms. Hudson presented the case. Roberta and Michael Franks were sworn in and testified requesting a 10-foot variance from the required 15-foot side yard setback requirement for a proposed detached garage; that the proposed garage will measure 36'x 50'; that to compliance with the setback requirement places the garage in the rear of the dwelling; that the proposed location lines up with the existing driveway; 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. Workman, seconded by Mr. Hudson, and carried that the variance be **granted since it will not alter the character of the neighborhood and the neighbors have no objection to the application**. Vote carried 3 – 1.

Case No. 9272 – George and Louise Edwards – east of Route One, south of Atlantic Avenue, being Lot 105 within Sea Air Mobile City Mobile Home Park.

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

Ms. Hudson presented the case. John Cates was sworn in and testified requesting a 14-foot variance from the required 20-foot separation requirement between units in a mobile home park; that the unit has been granted a variance; that the Applicant wants to construct a screen porch and a deck; and that the proposed porch and deck will meet setback requirements.

Jeannie Sisk, Kimberly Lear and Walter Hudson were sworn in and testified in opposition to the application; that there is no way to tell where the boundary lines are in the entire park; that this is an old park with small lots; that the park is not designed for double-wide units; that the unit was placed under false pretenses; that the park should be made to follow the setback requirements; and that they submitted pictures.

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In rebuttal, John Cates, stated that there are no markers to identify the boundary lines in the park; that the measurements are taken from each unit; and that the placement of the unit on Lot F105 were due to an existing sewer line.

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 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 case be **tabled until the Applicant defines the boundary lines in the park.** Vote carried 4 – 0.

Case No. 9273 – Richard A. and Ellen E. Absher – west of Road 579, 443 feet north of Road 40, being Lot 8 within Charles O'Day Subdivision.

A variance from the side yard setback requirement.

No one appeared on behalf of the application.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the application be **denied for lack of record of support.** Vote carried 4 – 0.

Case No. 9274 – Marvin R. Fraley – southwest of Road 48, 3,200 feet southeast of Road 326.

A special use exception to operate a bed and breakfast.

Ms. Hudson presented the case. Marvin and Patty Fraley were sworn in and testified requesting a special use exception to operate a bed and breakfast; that they currently run a 5-bedroom bed and breakfast; that they want to remodel an existing detached garage; that the detached garage will have 3-bedrooms available for the bed and breakfast; and that this will free up space in the dwelling for their family members.

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 since it will not alter the character of the neighborhood**. Vote carried 4 – 0.

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Case No. 9275 – Kellco Partnership DBA Verizon Wireless – southeast of Road 264, 1,230 feet southwest of Route One.

A special use exception to replace an existing telecommunications tower.

Ms. Hudson presented the case. Mike Gavin was sworn in and testified requesting a special use exception to replace an existing telecommunications tower; that the Mr. Gavin stated the correct name for the application should be Cellco Partnership; that they plan to replace an existing tower; that the proposed tower will be 130-foot in height; that the parcel is 30-acres; that the tower will meet all the required setback requirements; that there are no other sites to collocate on in the area; that there will be an 8-foot high fence around the base of the tower; that the tower will be available for other carriers to collocate; that they wish to have lighting only at the top of the tower; that the lighting requirement required by the County would be more intrusive to surrounding property owners; that the existing tower will be removed within 90-days; that the only sign on the property will be to identify the site and provide an emergency contact number; and that there is no adverse effect to the nearby airport.

By a show of hands 3 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. Workman, and carried unanimously that the case be **tabled until December 12, 2005 to review the lighting request**. Vote carried 4 – 0.

Case No. 9276 – Jennings E. Williams – northwest of Route 9, 3,330 feet northeast of Road 479.

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

Ms. Hudson presented the case. Jennings Williams was sworn in and testified requesting a special use exception to place a manufactured home on a medical hardship

basis; that the double-wide unit will be for his daughter; that his daughter has suffered a stroke; that she can no longer work and is on disability; that this will allow him to provide the care she needs; and that the unit will measure 26' x 48'.

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.

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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 special use exception be **granted for a period of two (2) years since it will have no adverse effect to the neighborhood**. Vote carried 4 – 0.

Case No. 9277 – Conrad S. and Wendy B. Boisvert – southwest of Laws Street, south of Earlee Avenue, being Lot 2, Section 2B within Passwaters Estates development.

A variance from the side yard setback requirement.

Ms. Hudson presented the case. Conrad Boisvert was sworn in and testified requesting an 0.1-foot variance from the required 5-foot side yard setback requirement for an existing shed; that he purchased the property July 2005; that the shed was on the property when he purchased it; that the encroachment was not discovered at settlement; that the shed is on a concrete slab; and that he will obtain a building permit.

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 variance be **granted since it will not alter the character of the neighborhood and is a minimum variance to afford relief**. Vote carried 4 – 0.

Case No. 9278 – Brian and Janet Thumm – south of Road 353, north of Bowman Lane, being Lot 9, Block C within Sherwood Acres development.

A variance from the side yard setback requirement.

Ms. Hudson presented the case. Brian Thumm was sworn in and testified requesting a 1-foot variance from the required 10-foot side yard setback requirement for a proposed manufactured home; that they purchased the property 5-years ago; that the proposed unit will measure 28' x 56'; that the unit will be placed in line with the other units on the street; 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. 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.

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OLD BUSINESS

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. Mills, seconded by Mr. Hudson, and carried unanimously that the case be **tabled until November 21, 2005**. Vote carried 4 – 0.

Case No. 9257 – NV Homes – north of Route 9, 1,450 feet east of Route 5, within Beaver Creek development.

A variance for additional signs.

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

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be **denied since it does not meet the standards for granting a variance**.

Vote carried 4 – 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. Mills, seconded by Mr. Hudson, and carried unanimously that the case be **tabled until November 21, 2005**. Vote carried 4 – 0.

Meeting Adjourned 9:15 p.m.