



Board of Adjustment
Agendas & Minutes

MINUTES OF OCTOBER 16, 2006

The regular meeting of the Sussex County Board of Adjustment was held on Monday, October 16, 2006, at 7:00 p.m. in the County Council Chambers, County Administrative 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. Mills, seconded by Mr. McCabe, and carried unanimously to approve the Revised Agenda as circulated. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of October 2, 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. 9646 – Rehoboth Beach Film Society – northeast of Route One, 900 feet south of Road 283.

A special use exception to erect a tent for special events.

Ms. Hudson presented the case. Sue Early was sworn in and testified requesting a special use exception to erect a tent for special events; that the tent is needed for the Film Festival; that the Festival has been held in the area for 9-years; that the tent is used for ticket sales, sponsors of the festival and a social area for the patrons attending the shows; that the festival is an economic boost to the area in the off season; that security is provided after hours; that they have used the tent for the past two years; that they were unaware of the need for the special use exception; that there is still adequate parking in the area; and that they would like approval for the maximum of five (5) years.

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 five (5) years since it will have no substantial effect on the neighborhood**. Vote carried 5 – 0.

Case No. 9647 – Rehoboth Beach Associates – north of Route One, 1,220 feet northeast of Road 273 within Rehoboth Crossing development.

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

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Ms. Hudson 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 there is a sales trailer on the property for another builder; and that the unit will only be needed for a period of 5-months.

The Board found that no parties appeared in support of or 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) months since it will have no substantial effect on the neighborhood**. Vote carried 5 – 0.

Case No. 9648 – McDonalds – southeast of Route 24, 575 feet southwest of Route 5.

A variance for additional signs.

Ms. Hudson presented the case. Bonnie McDaniel was sworn in and testified requesting a variance for additional signs; that McDonalds has a new sign package; that one sign is needed for the drive-thru side of the building; that this sign will measure 2' x 18'; that the sign will cover less than 3% of the wall; and that the ground sign will meet all required setback requirements.

John Gilbert was sworn in and testified in opposition to the application and stated that he represents the new community adjacent to the property; and that they are concerned there will be a lighted 25-foot high sign on the property.

The Board advised the opposition that the Zoning Ordinance permits 1 ground sign up to 25-foot in height.

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

Case No. 9649 – Stanley Merson and Joe Henderson – north of Route 54, east of Blue Teal Road, being Lot 14, Section A, Block B within Swann Keys development.

A variance from the side yard setback requirement.

Ms. Hudson presented the case. Charles Cohen was sworn in and testified requesting a 2.1-foot variance from the required 10-foot side yard setback requirement

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for a dwelling, a 2.3-foot variance from the required 10-foot side yard setback requirement for a dwelling, a 7.3-foot variance from the required 10-foot side yard setback requirement for steps and a landing, a 6.5-foot variance from the required 10-foot side yard setback requirement for steps, and a 4.5-foot variance from the required 10-foot side yard setback requirement for an air-conditioning unit; that they were granted a variance for the dwelling in February 2006; and that the previous variance did not include the steps, landing or the air-conditioning unit..

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. McCabe, seconded by Mr. Workman, and carried unanimously that the variances be **granted since it will not alter the character of the neighborhood**.
Vote carried 5 – 0.

Case No. 9650 – Bill Onksen – west of Route One, north of Beach Avenue, being Lot 13 within Indian Beach Surf Club development.

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

Ms. Hudson presented the case. Bill Onksen was sworn in and testified requesting a 16.1-foot variance from the required 30-foot front yard setback requirement for a proposed porch, a 19.1-foot variance from the required 30-foot front yard setback requirement for a proposed deck and a 3.9-foot variance from the required 10-foot rear yard setback requirement for a proposed porch; that the existing dwelling was built in 2003; that he wants to extend the decking and porch to make them more accessible; that the proposed porches and decks will not extend any further than the neighbor's on the street; that the decks will not block anyone's view; that he has been advised to seek the Homeowner's Association's approval after this Board's decision; and that he submitted paperwork.

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

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**.
Vote carried 5 – 0.

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Case No. 9651 – Elton and Donna Murray – north of Road 346 (Holts Landing Road), 210 feet west of Road 348 (Irons Lane).

A special use exception to build an accessory structure without a main building.

Ms. Hudson presented the case. Elton Murray was sworn in and testified requesting a special use exception to build an accessory structure without a main building; that the proposed building will measure 40'x 60'; that the building will be used for his motor home and three antique cars; that he purchased the property 5-years ago; that the property is adjacent to a borrow pit and a wastewater treatment facility; and that he felt the property was too small to pursue the Conditional Use approved by Planning & Zoning Commission and County Council to erect a mini-storage facility.

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 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. McCabe, seconded by Mr. Hudson, and carried unanimously that the special use exception be **granted since it will enable reasonable use of the property**.
Vote carried 5 – 0.

Case No. 9652 – Roger Brown – north of Route 9, west of Kings Crossing, being Lot 102 within Sussex West Mobile Home Park.

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

Ms. Hudson presented the case. Phil Clark Lynn and Roger Brown were sworn in and testified requesting a 149-square-foot variance from the maximum 35% allowable lot coverage in a mobile home park; that they plan to build a 10'x 10' porch on the unit; that the existing improvements already exceeded the maximum allowable 35% lot coverage; that the Applicant purchased the property with all the improvements; and that the Homeowner's Association approve the application.

By a show of hands 4 parties appeared in support of the application.

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

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Motion by Mr. McCabe, seconded by Mr. Mills, 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. 9653 – German Menezes – north of Route 20, corner west of Front Street Extended, within Hurley and Allens Addition.

A variance from the side yard setback requirement.

Ms. Hudson presented the case. German Menezes and Abraham Menezes were sworn in and testified requesting a 5-foot variance from the required 5-foot side yard setback requirement for an existing deck; that there was a deck on the front of the dwelling; that a car crashed into the front of the dwelling; that the side yard is a better place for the deck; that the deck also helps keep water from leaking into the basement; that he obtained a building permit after construction; that he plans to pour concrete under the deck; and that he submitted pictures.

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

Ms. Hudson read a letter submitted to the office in opposition to the application.

Motion by Mr. Mills, seconded by Mr. Workman, 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. Workman, seconded by Mr. McCabe, and carried unanimously that the variance be **denied since it does not meet the standards for granting a variance**. Vote carried 5 – 0.

Case No. 9654 – Selby Sign Co. – north of Route One, corner northwest of Road 276.

A variance for additional wall signs.

Ms. Hudson presented the case. Jamie Covington and Gary Moore were sworn in and testified requesting a variance for 3 additional wall signs; that the total square footage for all three signs is less than 80-square-feet; that the signs are needed on each side of the building due to its location; that they are trying to keep a professional appearance; and that there are two addresses for the business.

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.

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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. 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.

Ms. Hudson presented the case. Mack and Joan Smith were sworn in and testified requesting a 6.88-foot variance from the required 150-foot lot width requirement for a parcel, a 2,701-square-foot variance from the minimum 32,670-square-foot lot size requirement for a lot and a variance from the minimum age requirement to place a manufactured home; that they plan to place a double wide on the new lot; that the existing dwelling will be torn down; that when they purchased this portion of land it was combined with their existing parcel; and that the bank wants the property subdivided to finance the second dwelling.

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

The Board stated that the Applicant must reapply for a variance from the lot width requirement for the second parcel.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the case be **tabled until November 13, 2006 to allow the Applicant time to reapply for the second lot width variance and that the fee be waived.** Vote carried 5 – 0.

The Board took a 5-minute recess.

Case No. 9656 – Wendy L. Bauer – northwest of Route 16, northeast of Georgia Avenue, being Lot 8, Section 1, Block H within North Shores development.

A variance from the side yard setback requirement.

Ms. Hudson presented the case. Larry Fifer, Attorney, present on behalf of the application, testified requesting a 2-foot variance from the required 10-foot side yard setback requirement for each side; that the Applicant wants to erect a 12-sided dwelling; that it is mathematically impossible to meet the required setback requirements; and that there will be a 16' x 16' foot addition on the front of the dwelling.

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

The Board members 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 variances be **granted for a 2-foot variance on each side**. Vote carried 5 – 0.

Case No. 9657 – Donna Moore and Mildred Edmondson – east of Road 350, corner of Wilmington Street, being Lot 51, Section E within Banks Acres development.

A variance from the front yard setback requirement.

Ms. Hudson presented the case. Donna Moore was sworn in and testified requesting a 7.4-foot variance from the required 40-foot front yard setback requirement for an existing open porch; that her builder obtained the building permit; that the encroachment was not discovered until the builder applied for the Certificate of Occupancy; and that she can provide the name and address of the builder to the Board.

Ms. Hudson stated that the office received 2 letters in support of the application.

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

Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously that the variance be **granted and that a letter be sent to the builder from the Board's Counsel since it will not alter the character of the neighborhood and since it is the minimum variance to afford relief**. Vote carried 5 – 0.

OLD BUSINESS

Case No. 9613 – American Tower Corporation – south of Road 26, 50 feet west of Road 17.

Amend the stipulations of approval for Case No. 9424 (Omnipoint Communications).

The Board discussed the case which has been tabled since September 25, 2006.

Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously to **amend the conditions of approval on Case No. 9424 (Omnipoint Communications) that they have a red light at mid-point and at the top of the tower.** Vote carried 4 – 0.

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Case No. 9630 – Cingular Wireless – west of Road 365, north of Road 84.

A special use exception to erect a telecommunications tower.

The Board discussed the case which has been tabled since September 25, 2006.

Motion by Mr. McCabe, seconded by Mr. Hudson, and carried unanimously that the special use exception be **granted with the stipulation that there be a red lights on the tower at the midpoint and at the top of the tower.** Vote carried 5 – 0.

Case No. 9639 – Mr. and Mrs. Darrell Spurlock – north of Route 54, east of Blue Teal, being Lot 19, Block B within Swan Keys development.

A variance from the side yard setback requirement.

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

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

Meeting Adjourned 9:15 p.m.