

## MINUTES OF OCTOBER 2, 2006

The regular meeting of the Sussex County Board of Adjustment was held on Monday, October 2, 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. John Mills, Mr. Brent Workman and Mr. Jeff Hudson, with Mr. Richard 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. 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. Workman, and carried unanimously to approve the Minutes of September 25, 2006 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. 9631 – Sunny Cain** – west of Road 387, 1,257 feet south of Road 392.

A variance from the minimum lot size requirement for placement of a manufactured home and a variance from the rear yard setback requirement.

Ms. Hudson presented the case. Sunny Cain was sworn in and testified requesting a 16,670-square-foot variance from the required 32,670-square-foot minimum lot size requirement to place a manufactured home and a 10.3-foot variance from the required 20-foot rear yard setback requirement for a proposed deck; that the existing dwelling was torn down; that the proposed manufactured home will measure 28'x 70'; that there are numerous manufactured homes in the area; and that a surveyor has staked the location for the placement of the unit.

Bruce and Sandra Bennett were sworn in and testified in opposition to the application and stated that they own the adjacent property; that they have tried to contact the Applicant in reference to a ditch on their property; that the Applicant has pushed debris and trash into the ditch; that they feel the Applicant should be responsible to clean the ditch; and that they would agree to the application with an agreement in writing that the Applicant will clean the ditch.

In rebuttal, Sunny Cain, stated that the neighbor's have never tried to contact her; that the existing blocks and bricks will be removed from the property; that she has had 7 dumpsters brought in to clean the property; and that she has no objection to cleaning the ditch this one time.

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

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

Motion by Mr. Mills to approve the application.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously to withdraw the motion. Vote carried 4 – 0.

Motion by Mr. Mills, seconded by Mr. Workman, 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. Workman, seconded by Mr. Hudson, and carried unanimously that the variances be **granted with the stipulation that the Applicant run string from property markers to identify the rear yard property line and that the lot is cleared of all debris up to the property line.** Vote carried 4 – 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.

No one appeared on behalf of the application.

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

**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.

Ms. Hudson presented the case. Greg Moore was sworn in and testified requesting a 49-parking space variance from the required 265-parking space minimum parking space requirement, a 2-loading space variance from the required 2-loading space minimum loading space requirement, and a 20-foot variance from the required 20-foot landscape buffer requirement for proposed additions; that the bank plans to build two additions to the existing building; that the bank and the hotel on the adjacent parcel share parking; that the peak hours for each use are at completely different times of the day; that the proposed configuration of the parking lot will create 31-new parking spaces; that there is

not a need for a loading zone for the bank; that there is also a right-of-way for the electric company across the front of the property; that they are permitted to park in the right-of-way; that there is already parking within the landscape buffer; that they wish to extend the existing parking along the front of the property; that the 50-foot easement allows for parking and access to the adjacent property that is not yet developed; that the existing property line runs directly behind the existing building; that due to the uniqueness of the property it cannot be otherwise developed; that the variance is needed to enable reasonable use of the property; that the restrictions were not created by the Applicant; and that the proposed additions will not alter the character of the neighborhood.

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. 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. Hudson, seconded by Mr. Mills, and carried unanimously that the variances be **tabled until November 13, 2006**. Vote carried 4 – 0.

**Case No. 9634 – Popa Doo's Market & BBQ** – intersection of Route 14 and Route One, being Lot 8 within 8 within John D. Farens Subdivision.

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

Ms. Hudson presented the case. Larry and Brandi Sines were sworn in and testified requesting a special use exception to place an off-premise ground sign; that their store is approximately ¼ mile off of Route One; that the sign is needed to attract business from Route One; that the community supports the application; that they were unaware of the sign ordinance; that they promptly removed all the other signs along the roadway; and that they have one wall sign on the store.

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. Mills, and carried unanimously that the special use exception be **granted since it will have no substantial effect to the neighborhood**. Vote carried 4 – 0.

**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.

No one appeared on behalf of the application.

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

**Case No. 9636 – David L. and Karen J. Crede** – south of Johnson Avenue (Road 207), corner southeast of Second Street (Road 38C).

A variance from the minimum lot size requirement for an accessory structure without a main building.

Ms. Hudson presented the case. David & Karen Crede were sworn in and testified requesting a 19,082-square-foot variance from the required 43,560-square-foot minimum lot size requirement for an accessory structure without a main building; that they purchased the lot 3-years ago; that they do plan to build a dwelling on the property; that the builder applied for the building permit; that the building permit was issued to the wrong parcel; that they were not aware of the violation until after the construction of the building; and that they plan to build within 5-years.

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 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 with the stipulation that there will be a dwelling built on the property within five (5) years or the building must be removed**. Vote carried 4 – 0.

**Case No. 9637 – Jimmy Hudson** – southwest of Road 334, 380 feet southeast of Road 334A.

A variance from the side yard setback requirement.

Ms. Hudson presented the case. Jimmy Hudson was sworn in and testified requesting an 0.5-foot variance from the required 10-foot side yard setback requirement

for an existing attached garage; that he purchased his parents dwelling; that the attached garage has been on the lot as long as he can remember; that the encroachment was discovered on a survey done for settlement; and that the existing detached garage measures 24'x 24'.

By a show of hands 1 party appeared in support of 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. 9638 – Larry Bonner** – east of Bunting Avenue, 100 feet north of Virginia Avenue, being Lot 3, Section D within L.P. Faucett, Inc. lots.

A variance from the front yard setback requirement and a variance from the minimum square footage requirement for a duplex.

Ms. Hudson presented the case. Larry Bonner was sworn in with Shannon Carmean, Attorney, present on behalf of the application, and testified requesting a 4.70-foot variance from the required 30-foot front yard setback requirement and a 2,231-square-foot variance from the required 7,260-square-foot minimum square foot requirement for a duplex; that the Applicant purchased the property in May 2004; that the proposed duplex is permitted on the property; that there are similar variances in the area; that the size of the narrow lot creates uniqueness; that it will not alter the character of the neighborhood; and that this is the minimum variance to afford relief.

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. Mills, and carried unanimously that the variances be **granted since it meets the standards for granting a variance**. Vote carried 4 – 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.

Ms. Hudson presented the case. Naomi and Darrell Spurlock were sworn in and testified requesting a 4-foot variance from the required 10-foot side yard setback requirement for a proposed manufactured home; that the lot measures 40'x 100'; that the

proposed unit will measure 24' x 54'; that the unit will be in line with the other units on the street; that the air conditioning unit will be placed on the south side of the lot; and that they can provide the exact measurements needed for a variance for the air conditioning 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 case be **left open to allow the Applicant to provide how much of a variance is needed for the air conditioning unit**. Vote carried 4 – 0.

**Case No. 9640 – Roger and Celeste Sansom** – south of Road 452, 419 feet west of Road 453.

A variance from the minimum lot width requirement for a parcel and a variance from the front yard setback requirement.

Ms. Hudson presented the case. Roger Sansom was sworn in and testified requesting a 16.54-foot variance from the required 150-foot lot width requirement for a parcel and a 40-foot variance from the required 40-foot front yard setback requirement for an existing dwelling; that he believes the dwelling is non-conforming; that he wants to subdivide the lot and build a new dwelling; and that all the other improvements will comply with the required setback requirements.

The Board members 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 variances be **granted since it will not alter the character of the neighborhood and since it will enable reasonable use of the property**. Vote carried 4 – 0.

**Case No. 9641 – Michael and Gloria Brandon** – west of Road 273, southeast of Burton Avenue, being Lot 21-A within West Rehoboth.

A variance from the front yard setback requirement.

Ms. Hudson presented the case. Michael Brandon was sworn in and testified requesting a 20-foot variance from the required 30-foot front yard setback requirement for a proposed dwelling; that the lot is irregular shaped; that there is open space adjacent to the property; that the lot is at the end of a dead end road; that the bike path runs along the property; and that the variance will enable reasonable use of 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. Hudson, and carried unanimously that the variance be **granted since it meets the standards for granting a variance**.  
Vote carried 4 – 0.

**Case No. 9642 – Joseph and Melanie Norton** – north of Route 26, northwest of Shawnee Drive, being Lot 7 within Blackwater Village development.

A variance from the rear yard setback requirement.

Ms. Hudson presented the case. Joseph Norton was sworn in and testified requesting a 1.2-foot variance from the required 5-foot rear yard setback requirement for an existing shed; that the survey was done in 1997; that he did not build the shed; that the shed was on the lot when he purchased the property; that he feels the previous owner was not aware that the property line ran at an angle; and that he obtained a building permit to bring the property into compliance.

Gerard and Kirsten Seling were sworn in and testified in opposition to the application and stated that they own the adjacent property; that they feel the Applicant should be made to comply with the required setback requirements; that another neighbor was made to move his shed into compliance; that they submitted pictures; and that they would really just like to see the work on the shed completed.

In rebuttal, Joseph Norton, stated that they have made some repairs to the existing shed; and that he would have the construction complete within ninety (90) days.

William Jones was sworn in and testified in support of the application and stated that he has lived next to the Applicant since 1998; and that the size and shape of the shed is the exact same.

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.

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 variance be **granted with the stipulation that the construction on the shed be completed within ninety (90) days**. Vote carried 4 – 0.

**Case No. 9543 – Two Farms Inc.** – north of Route 24, corner southwest of Road 297.

A variance for additional wall signs and ground signs and a variance from the maximum allowable square footage of a sign.

Ms. Hudson presented the case. Gary Brandt was sworn in and testified requesting a variance for additional wall signs, a 156.5-square-foot variance from the required 100-square-foot maximum allowable square footage of a sign, and a variance for an additional ground sign; that the Board has granted similar cases in the past for Royal Farms; that the signs at the pump are necessary due to the ability for a patron to pay at the pump; and that the signs are standard for most Royal Farm stores.

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

**Case No. 9644 – Briarwood Estates, Inc.** – west of U.S. Route 13, 1.1 miles south of Road 70.

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

Ms. Hudson presented the case. Edward Nock was sworn in and testified requesting an 18-foot variance from the required 30-foot rear yard setback requirement for two storage buildings and an 18-foot variance from the required 20-foot side yard setback requirement for a model home; that he purchased the property 27-years ago; that the existing driveway is the only access to the rear of the property; that an existing mound system and the need to store units on the lot prevent the storage buildings from complying with the required setback requirements; that the other improvements will be moved into compliance or removed; and that the number of units on the property are needed to run a successful business.

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

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

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variances be **granted since it will not alter the character of the neighborhood**.  
Vote carried 4 – 0.



**Case No. 9645 – Donna Corridori** – south of Road 88, south of Overbrook Drive, being Lot 66, Section 1 within Overbrook Shores development.

A variance from the maximum allowable height requirement for a fence and a variance from the front yard setback requirement for a through lot.

Ms. Hudson presented the case. Donna Corridori was sworn in and testified requesting a 0.6-foot variance from the required 4.0-foot height requirement for a fence around a pool and an 18-foot variance from the required 30-foot front yard setback requirement for a shed; that she obtained the proper permits for the improvements; that the wrong setback requirements were given on the building permits; and that a small portion of a cul-de-sac creates a through lot.

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. Workman, and carried unanimously that the variances be **granted since it meets the standards for granting a variance**.  
Vote carried 4 – 0.

**Meeting Adjourned 9:45 p.m.**