



# BOARD OF ADJUSTMENT

## AGENDAS & MINUTES

### MINUTES OF OCTOBER 1, 2007

The regular meeting of the Sussex County Board of Adjustment was held on Monday October 1, 2007, 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. Ronald McCabe, Mr. John Mills, Mr. Brent Workman and Mr. Jeff Hudson, with Mr. Richard Berl – Assistant County Attorney and staff members Mrs. Melissa Thibodeau, Mr. Russell Warrington and Mrs. Kelly Passwaters – Recording Secretary.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Revised Agenda. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously to approve the Minutes of September 24, 2007 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.

### PUBLIC HEARINGS

**Case No. 9947 – Gloria Fox-** east of Road 258, 0.4. mile south of Road 88.

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

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously to move the case to the end of the public hearings. Vote carried 5 – 0.

Mrs. Thibodeau presented the case. Stephanie Coggle was sworn in and testified requesting a special use exception to retain a manufactured home on a medical hardship basis; that the case was previously approved in 1999; and that she did not realize that her mother had missed her expiration date.

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 2 years since it will not alter the essential character of the neighborhood.** Vote carried 5 – 0.

**Case No. 9948 – Beverly D. and David J. Henry-** south of Road 554, southeast of Road 560.

A variance from the side yard setback requirement.

Mrs. Thibodeau presented the case. Beverly and David Henry were sworn in and testified requesting an 8-foot variance from the required 15-foot side yard setback requirement; that they would like to place a pole shed on the driveway; and that it would be used for parking vehicles.

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 that the variance be **granted since it is the minimum variance to afford relief and since it will not alter the essential character of the neighborhood.** Vote carried 5 – 0.

**Case No. 9949 – Janet C. Harmon-** south of Road 312A, 750 feet east of Route 24, being Lot C.

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

Mrs. Thibodeau presented the case. Robert Radish was sworn in on behalf of the applicant and testified requesting a 50-foot variance from the required 150-foot road frontage requirement; that the applicant would like to sell Parcel A; that she would like to even up all lot lines so they can all be usable parcels; and that Parcel A and B have improvements on them.

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 variance be **granted since it will not alter the essential character of the neighborhood.** Vote carried 5 – 0.

**Case No. 9950 – Canal Place, LLC-** west of Cedar Neck Road, west of Fred Hudson Road, being within Canal Place development.

A variance from the front yard setback requirement.

Mrs. Thibodeau presented the case. Frank Marshall Key was sworn in along with James Fuqua, Attorney, present on behalf of the applicant, and testified requesting a 17-foot variance from the required 30-foot front yard setback requirement; that a portion of the deck will surround the pool and clubhouse; that the property fronts on Whites Creek;

that it is a unique piece of water front property; that the property is 2-feet above grade; and that it will benefit the entire community.

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 variance be **granted since it will not alter the essential character of the neighborhood and since it is the minimum variance to afford relief**. Vote carried 5 – 0.

**Case No. 9951 & Case No. 9893 – Joanna C. Pappas-** north of Road 313A, north of Route 24.

A variance from the minimum acreage requirement for a veterinary hospital, special use exception for a veterinary hospital and a variance from the setback requirements.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the information for Case No. 9951 & Case No. 9893 be incorporated into one. Vote carried 5 – 0.

Mrs. Thibodeau presented the case. Joanna and Demetrius Pappas were sworn in and testified requesting a variance from the required 5 Acre parcel to operate a veterinary hospital; that they would like to convert the garage into a veterinary hospital; that the garage measures 40' x 40'; and that it would be used for small animals only.

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 variances and special use exception be **granted since it will not alter the essential character of the neighborhood**. Vote carried 5 – 0.

**Case No. 9952 – Richard Bell, III-** southeast of Route 9, 1,800 feet west of Road 321 (Park Avenue).

A special use exception to retain a manufactured home type structure as an office.

Mrs. Thibodeau presented the case. Richard Bell, III was sworn in and testified requesting a special use exception to use an existing mobile home type structure as a office; that he has been approved for a conditional use; that he would like to use the

existing mobile home as an office; that it would have landscaping around the outside; and that he would like to build a pole building for a office in 1-2 years.

George Dick was sworn and testified in opposition to the application and stated that the property is not zoned commercial; that he feels allowing commercial activity opens the door for further businesses in the future; and that he was told that the applicant was not approved for a conditional use.

By a show of hands, 1 party appeared in opposition to 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 case be taken 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. McCabe, and carried unanimously that the special use exception be **granted for a period of 2 years since it will not substantially affect adversely the uses of adjacent and neighboring properties.** Vote carried 5 – 0.

**Case No. 9953 – James F. and Janet L. Mullin-** southwest of Road 349, 190 feet north of Road 351, being Lot 3, Section 3 within Banks Acres development.

A variance from the front yard setback requirement.

Mrs. Thibodeau presented the case. James and Janet Mullin were sworn in and testified requesting a 8-foot variance from the required 40-foot front yard setback requirement; that the existing mobile home will be removed; that a variance was approved in 1998 for the side yard setback; that the variance will be for a front porch that is being placed after the new home is placed.

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 variance be **granted.** Vote carried 5 – 0.

**Case No. 9954 – Russell Mutlick-** north of Road 341, west of West Lagoon Road, being Lot 62 within Dogwood Acres development.

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

Mrs. Thibodeau presented the case. Russell Mutlick was sworn in and testified requesting a 10-foot variance from the required 30-foot front yard setback requirement and a 6-foot variance from the required 10-foot side yard setback requirement; that he purchased the property in July 2007; that he would like to build a new home; and that the lot measures 50' x 100'.

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

**Case No. 9955 – Ken and Mary Jo Holcomb-** Blue Teal Road, being Lot 13, Block C, Section A within Swann Keys development.

A variance from the side yard setback requirement.

Mrs. Thibodeau presented the case. Stacey Fisher was sworn in and testified requesting a 6-foot variance from the required 10-foot side yard setback requirement for steps and HVAC units; that the variances are for the steps, propane tank and HVAC units; and that the steps are 1.5-foot from the property line.

Mrs. Thibodeau stated the office received one letter in support of the application.

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

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

**Case No. 9956 – Burt Braverman and Kathleen Meredith-** east of Shore Drive, being Lot 10 within Thomas T. Jones Subdivision.

A variance from the side yard setback requirement.

Mrs. Thibodeau presented the case. Burt Braverman was sworn in along with Gene Bayard, Attorney, present on behalf of the applicant, and testified requesting a 8.7-foot variance from the 15-foot side corner yard setback requirement; that the applicant

purchased the property 5 years ago; that the home is 45 years old; that the applicant was advised that it would not be economical to rehab the home; that the pavilion on the property is being removed; that the septic system must be replaced; and that the new home will contain 2400-square feet.

Mrs. Thibodeau stated the office received one letter in support of the application.

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

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

**Case No. 9957 – Rachel Absher-** south corner of Route 40 and Road 565.

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

Mrs. Thibodeau presented the case. Terry Callaway was sworn in and testified requesting a 10.8-foot variance from the required 15-foot side corner setback requirement, a 4.8-foot variance from the required 15-foot side corner setback requirement and a 9.1-foot variance from the required 40-foot front yard setback requirement; that several out buildings have been removed from the property; and that the home may have shifted from the original footprint when the new home was placed causing the need for the variances.

Mrs. Thibodeau stated the office received 1 letter in favor of the application.

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

Motion by Mr. Workman, seconded by Mr. McCabe, and carried unanimously that the variances be **granted since it will not alter the essential character of the neighborhood and since it is the minimum variance to afford relief**. Vote carried 5 – 0.

**Case No. 9958 – Gregory and Rita Stevens-** southwest of East lane, 1850 feet northwest of Mulberry Knoll Road, being Lots 6, 7, 8, and 9 within Bay Shore Hills development.

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

Mrs. Thibodeau presented the case. Greg Stevens and Garth Jones were sworn in and testified requesting a 10-foot variance from the required 30-foot front yard setback requirement, a 10-foot variance from the required 20-foot rear yard setback requirement; that he was previously approved in April 2005 for the 10-foot front yard setback requirement; that the applicant did not realize that the variance expired; that the existing

home was built in 1989; that the applicant plans to demolish the existing home on the parcel; that the applicant plans to construct a new home; and that the shoreline has migrated inland.

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

**Case No. 9959 – Vivian Spence-** east of Road 216, north of Road 637.

A variance from the front yard setback requirement.

Mrs. Thibodeau presented the case. Vivian Spence was sworn in and testified requesting a 9-foot variance from the required 40-foot front yard setback requirement; that she would like to add an addition to the existing singlewide or replace it with a doublewide; that it is a unique parcel; and that the home cannot be moved further back on the parcel due to the placement of the septic system.

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.

OLD BUSINESS

**Case No. 9925 – Gary and Margaret Oxbridge-** south of Driftwood Court, 250 feet southwest of Road 361, being Unit 684 within Bethany Meadow Phase 6.

A variance from the separation requirement between multi-family structures.

The Board discussed the case, which has been tabled since September 10, 2007.

Motion by Mr. McCabe, seconded by Mr. Workman, and carried unanimously that the case be **tabled until the October 15, 2007 meeting**. Vote carried 5 – 0.

**Case No. 9939 – Alyn and Patricia Hulse-** southeast of Road 381, south of Road 368, being Lot 616 within Bay Breeze development.

A variance from the separation requirement between multi-family structures.

The Board discussed the case, which has been tabled since September 24, 2007.

Motion by Mr. McCabe, seconded by Mr. Workman, and carried unanimously that the case be **tabled until the October 15, 2007 meeting**. Vote carried 5 – 0.

**Case No. 9940 – Lillian Wannall-** north of Route 26, 4, 300 feet west of Road 340.

A variance from the front yard setback requirement.

The Board discussed the case, which has been tabled since September 24, 2007.

Motion by Mr. Hudson, seconded by Mr. Workman, and carried unanimously that the variance be **granted and that a letter be sent to the contractor**. Vote carried 4 - 0.

**Meeting Adjourned 8:30 p.m.**