



*Board of Adjustment*  
Agendas & Minutes

**MINUTES OF SEPTEMBER 12, 2005**

The regular meeting of the Sussex County Board of Adjustment was held on September 12, 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. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Agenda as circulated. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously to approve the Minutes of August 15, 2005 and the Minutes of August 29, 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. 9204 – Old Bay Road, LLC and Lawrence A. Brown** – intersection of Route One and Road 272B (Old County Road).

A variance from the front yard setback requirement for a through lot and a variance from the minimum required parking spaces.

Ms. Hudson presented the case. Zach Crouch and Lawrence Brown were sworn in and testified requesting a 48-foot variance from the required 60-foot front yard setback requirement, a 51-foot variance from the required 60-foot front yard setback requirement for a through lot and a 1-parking space requirement from the required 3-parking space requirement; that the request was granted in February 2003; that they filed for an extension with the Board on March 12, 2004; that they just received final approval from Planning and Zoning Commission on June 6, 2005; and that there are no changes from the original application; that there have been a few unanticipated delays with DelDOT, Sussex County Building Code; and that construction is scheduled to begin between August 1<sup>st</sup> and September 1<sup>st</sup> of 2005.

Joseph Billgir was sworn in and testified in opposition to the application and stated that he is concerned the project will create a safety hazard; and that traffic merges from Route 1 onto Old Bay Road at full speed of at least 50-miles per hour.

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

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Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variances be **granted since the requirements or circumstances have not changed since the previous application granted in 2003**. Vote carried 5 – 0.

**Case No. 9205 – George L. Dale, Jr.** – north of Road 402, 1,942 feet west of U.S. Route 113.

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

Ms. Hudson presented the case. Edna Gibbs was sworn in and testified requesting an 89-foot variance from the required 150-foot lot width requirement and a 9,147.6-foot variance from the required 32,670-square-foot lot size requirement; that they want to subdivide the parcel; that there is an existing dwelling on the property; that they plan to develop the proposed lot; and that they will share a driveway.

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 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 tabled until October 3, 2005. Vote carried 5 – 0.

**Case No. 9206 – Darrell and Sarah Long** – south of Route 54, west of Taylor Avenue, being Lot 39, Block 5 within Cape Windsor development.

A variance from the side yard setback requirement.

No one appeared on behalf of the application.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variance be **denied due to lack of representation**. Vote carried 5 – 0.

**Case No. 9207 – Steven Milligan** – southeast of road 490, northwest of Grace Circle, being Lot 2 within Hill N Dale development.

A variance from the side yard setback requirement.

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Ms. Hudson presented the case. Steven Milligan was sworn in and testified requesting an 8-foot variance from the required 15-foot side yard setback requirement for a proposed attached garage; that the proposed garage will measure 28' x 32'; that the proposed garage will be 65-foot from his neighbors dwelling; that the adjacent neighbor has no objection to the application; that the well and septic are on the opposite side of the property; and that the fence will be replaced between his property and his neighbors property.

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 variance be **granted for an 8-foot variance and that the Applicant obtain Certificate of Compliances on the existing building permits since it meets all the standards for granting a variance**. Vote carried 5 – 0.

**Case No. 9208 – Don Miller** – south of Route 22, 2,250 feet east of Road 298.

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

Ms. Hudson presented the case. Frank Fulmer was sworn in with Bill Wilgus, Attorney, present on behalf of the application, 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 due to the sale of the existing restaurant; that the existing golf course has not been sold; that they will retain the existing 50-foot road way that leads to the restaurant for the lot width; and that there will be no changes made to the existing layout of the property.

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. McCabe, and carried unanimously that the variance be **granted since the property is unique and will enable reasonable use of the property since the two (2) businesses currently exist**. Vote carried 5 – 0.

**Case No. 9209 – Hockessin Chase LLC** – north of Road 351, north of Bird Haven Road, within White Creek At Bethany 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. John Leebolt 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 14'x60'; that the unit will be needed until May 2006 when the model will be completed; that the unit will have landscaping and adequate parking; that the unit will meet all the required setbacks; and that the hours will be 10:00 a.m. to 5:00 p.m., 7-days a week.

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 special use exception be **granted for a period of one (1) year**. Vote carried 5 – 0.

**Case No. 9210 – Cingular Wireless, LLC** – south of Road 524 (German Road), 0.5 mile north of Road 201 (Concord Road).

A variance from the maximum allowable height requirement for a telecommunications tower.

Ms. Hudson presented the case. Tom Zolna, Susan Tierney, and Paul Antola were sworn in with Pamela Scott, Attorney, present on behalf the application and testified requesting a 50-foot variance from the required 150-foot maximum allowable height requirement for a telecommunications tower; that the Applicant has received approval for the site of the tower; that the tower will measure 200-foot in height; that the previous application did not get advertised for the height variance needed; that the proposed height is needed to use a single site versus having to place another tower within close proximity to this tower; that there were no other sites to collocate; that typically there is between 3 to 4 miles between tower sites; and that signals need to overlap to maintain coverage when on a call.

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

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**Case No. 9211 – David Costello** – southwest of Route 54 (Lighthouse Road), northwest of Van Buren Avenue, being Lot 22, Block 4 within Edgewater Acres development.

A variance from the front yard setback requirement.

Ms. Hudson presented the case. David Costello was sworn in and testified requesting a 22-foot variance from the required 40-foot front yard setback requirement for a proposed shed; that the proposed shed will measure 10'x 10'; that the shed will be in character with the design of the dwelling; that the shed will block his neighbors view if placed in the rear of the property; that his neighbors support the application; that there will be adequate parking; and that he submitted a letter in support of the application.

Ms. Hudson stated that the office received 3 letters in support of the application.

Ms. Hudson stated that the office received 1 letter 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 character of the neighborhood**. Vote carried 5 – 0.

**Case No. 9212 – Briarwood Mobile Home Park** – north of Road 462, east of Briarwood Lane, being Lot D-4 within Briarwood Mobile Home Park.

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

Ms. Hudson presented the case. Rob Bryan was sworn in and testified requesting a 1.9-foot variance from the required 20-foot separation requirement between units in a mobile home park; that he replaced the unit on Lot D-4; that he placed the unit within the existing footprint of the previous unit; that the deck built on Lot D-3 was built without park approval; and that he was unable to find out if a permit was issued for the deck.

Leonard Sears was sworn in and testified in opposition to the application and stated that he feels the park did not pay any attention to the lot lines when placing the unit; that the previous unit measured 12' x 48'; and that there are numerous violations in the park.

David Parker was sworn in and testified in opposition to the application and stated that he owns the unit on Lot D-3; that he purchased the unit in April 2004; that he obtained a building permit for his shed; that the deck was built over an existing concrete pad; that he maintained Lot D-4 when it was vacant; and that the steps on Lot D-4 create a hardship when maneuvering his boat off his lot.

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The Board took a 10-minute recess.

Ms. Hudson stated that the deck on Lot D-3 was built without a building permit therefore Lot D-3 is in violation not Lot D-4.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the case be **denied as unnecessary due to the violation on Lot D-3**. Vote carried 5 – 0.

**Case No. 9213 – Beach Homes, Inc.** – south of Route 54, east of Grant Avenue, being Lot 18, Block 6 within Cape Windsor development.

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

Ms. Hudson presented the case. Mark Collender was sworn in and testified requesting a 4-foot variance from the required 10-foot side yard setback requirement and a 4-foot variance from the required 20-foot rear yard setback requirement for a proposed dwelling and deck; that the proposed unit will maintain the required setback set by the development; that there is currently no parking area on the lot; that the proposed location of the dwelling will provide adequate parking; and that he submitted a letter of approval from the Homeowner's Association.

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 character of the neighborhood**. Vote carried 5 – 0.

**Case No. 9214 – The Bank of Delmarva** – southwest of Route One and southeast of Road 283.

A special use exception for a second ground sign.

Ms. Hudson presented the case. Edward Thomas and Ben Phillips were sworn in and testified requesting a special use exception for a second ground sign; that the second sign is needed to improve visibility of the bank; that the existing ground sign has no available space; that the proposed sign will measure between 92-square-foot and 102-square-foot and will be 19-foot in height; and that there is no objection from Pelican Square to the application.

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

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Motion by Mr. Mills, 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. 9215 – Resort Homes, Inc.** – north of Route 54, west of Laws Point Road, being Lot 22, Block F within Swann Keys development.

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

Ms. Hudson presented the case. Daryl Grear and Paul Neal were sworn in and testified requesting a 4.8-foot variance from the required 10-foot side yard setback requirement for a proposed attached shed, a 4-foot variance from the required 10-foot front yard setback requirement for a proposed dwelling and a 4-foot variance from the required 10-foot side yard setback requirement for a proposed porch; that they are replacing an existing manufactured home; that the proposed location of the dwelling is in line with the other dwellings in the development; that they submitted pictures; and that they submitted letters in support of 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. Workman, and carried unanimously that the variances be **granted since it will not alter the character of the neighborhood and since there have been numerous variances granted in the development**. Vote carried 5 – 0.

**Case No. 9216 – North Bay Marina** – north of Route 54, 1,550 feet east of Road 381.

A variance from the front yard setback requirement.

Ms. Hudson presented the case. Randall Beachum, Mary McCurdy and Scott McCurdy were sworn in with Ray Tomasetti, Attorney, present on behalf of the application and testified requesting a 20-foot variance from the required 60-foot front yard setback requirement; that the business has existed since 1986; that the proposed building will measure 200'x 800'; that the building will be in line with the existing buildings on the property; that the existing buildings were built when the setback requirement was 40-foot front yard requirement; and that they submitted pictures and letters in support of the application.

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

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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.

**Case No. 9217 – Dexter A. Long** – west of U.S. Route 113, 310 feet south of road 244, within Norman Ziegenfuss Subdivision.

A variance from the side yard setback requirement.

Ms. Hudson presented the case. Dexter Long was sworn in and testified requesting a 10-foot variance from the required 15-foot side yard setback requirement for a proposed detached pole building; that the proposed building will measure 24'x 28'; that the neighbors well is located on his property; that the well prevents him from complying with the required setbacks; that his neighbor is in support of the application; and that the proposed location will line up with his existing 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. Hudson, seconded by Mr. McCabe, and carried unanimously that the variance be **granted since it will not alter the character of the neighborhood and is the minimum variance to afford relief**. Vote carried 5 – 0.

**Case No. 9218 – Karen Meekins** – east of Road 31, 2,548 feet north of Route 30.

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



Ms. Hudson presented the case. Karen Meekins and Donna Robles were sworn in and testified requesting a special use exception to place a manufactured home on a medical hardship basis; that the property is a 5-acre parcel; that her daughter will live in the unit to help care for her; and that they understand the use is only temporary.

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 for a period of two (2) years since it will have no adverse affect to the neighborhood**. Vote carried 5 – 0.

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### **OLD BUSINESS**

**Case No. 9194 – Robert and Sara Balint** – north of Route 54, east of Blue Bill Drive, being Lot 5, Block G within Swann Keys development.

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

The Board discussed the case which has been tabled since August 29, 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.

**Meeting Adjourned 9:35 p.m.**