



Board of Adjustment
Agendas & Minutes

MINUTES OF OCTOBER 17, 2005

The regular meeting of the Sussex County Board of Adjustment was held on October 17, 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. McCabe, seconded by Mr. Hudson, and carried unanimously to approve the Revised Agenda with the correction that Case No. 9252 – Bottle, Inc. was withdrawn on October 14, 2005. Vote carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of October 3, 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. 9249 – Axiom Engineering, L.L.C. – north of Route One, 1,000 feet south of Route 9.

A variance from the front yard setback requirement.

Ms. Hudson presented the case. Ken Christenbury and Bob Wotring were sworn in and testified requesting a 14-foot variance from the required 60-foot front yard setback requirement for a proposed building; that the existing shopping center was built in 1987; that the front yard setback was 40-foot; that there is County sewer available to the property now which eliminates the need for the existing septic system; that the proposed building will be a triangular shape; that the proposed building will not alter the character of the neighborhood; that there will be adequate parking available; and that there will be no changes to the existing building.

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.

Case No. 9250 – Lawrence J. Vansickler – east of Bunting Avenue, 50 feet south of Virginia Avenue, being Lot 3, Section C.

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A variance from the minimum square footage requirement for multi-family dwelling.

Ms. Hudson presented the case. Lawrence Vansickler was sworn in and testified requesting a 2,260-square-foot variance from the required 7,260-square-foot requirement for multi-family dwelling for 2-units; that the proposed duplex will be 4-story building; that there are numerous duplexes in the area; that the existing dwelling has been removed; that he has DNREC approval and the County Building Code approval; and that he submitted pictures and letters from neighbors in support of 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. 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. 9251 – Victor and Rita Hudson – south of Route 404, 25 feet east of Road 32.

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

Ms. Hudson presented the case. Victor and Rita Hudson were sworn in and testified requesting a special use exception to place a manufactured home on a medical hardship basis; that the unit is for their son and his family; that they own a 1.17-acre parcel; that they have approval from DNREC to connect the unit to the existing septic system; and that their neighbors have no objection to 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. McCabe, and carried unanimously that the special use exception be **granted for a period of two (2) years**.

Vote carried 5 – 0.

Case No. 9253 – Michael and Pamela Webster – north of Road 452, 1,448 feet east of Road 68.

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

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Ms. Hudson presented the case. Michael and Pamela Webster were sworn in and testified requesting a 50-foot variance from the required 150-foot lot width requirement for Lots 2 and 3 and a 25-foot variance from the required 150-foot lot width requirement for Lot 1; that they live in the existing dwelling that will be on Lot 1; that they want to subdivide the property and give a lot to each daughter; that there will be a combined driveway; and that the neighbor 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. 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. Hudson, seconded by Mr. McCabe, and carried unanimously that the variance be **granted with the stipulation that the 100-foot wide lots share a driveway**. Vote carried 5 – 0.

Case No. 9254 – Oreck – southwest of Route One, 3,240 feet south of Road 275A.

A variance from the front yard setback requirement.

Ms. Hudson presented the case.

No one appeared on behalf of the application.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variance be **denied due to lack of representation and that the office follow up with the sign violation**. Vote carried 5 – 0.

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.

Ms. Hudson presented the case. Bijan Sistani was sworn in and testified requesting a 4-foot variance from the required 5-foot side yard setback requirement for a gazebo and a 0.6-foot variance from the required 30-foot front yard setback requirement for an existing screen porch; that he purchased the property 3 ½- years ago; that they purchased the gazebo about 2-years ago; that he was not aware a building permit was required for the gazebo; that the screen porch was already on the dwelling when he

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purchased the property; and that he can provide the name and address of the company where they purchased the gazebo.

James Latchum was sworn in and testified in opposition to the application and stated that he owns the adjacent property; that his realtor said the gazebo would be a detriment to his property value; that there will be no room for emergency vehicles to gain access to the rear of the property; that the Homeowner's Association has not approved the placement of the gazebo; and that he submitted pictures.

In rebuttal, Bijan Sistani, stated that he is unaware of any Homeowner's Association; that he has never received any correspondence from a Homeowner's Association; that he could screen in under the existing screen porch; and that the location of the gazebo is to maintain privacy and safety.

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

Motion by Mr. McCabe, seconded by Mr. Workman, and carried unanimously that the case be **tabled until November 7, 2005**. Vote carried 5 – 0.

Case No. 9256 – NV Homes – north of Route 9, 1,450 feet east of Route 5, within Beaver Creek development.

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

Ms. Hudson presented the case. Tim Sopko and Todd Hickman were sworn in and testified requesting a special use exception to retain a manufactured home type structure as a sales office; that the development process has taken longer than expected; that they need the unit for approximately six more months; that they plan to start construction on the model dwelling within the next two-weeks; and that the unit will not be needed once the model is completed.

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 special use exception be **granted for a period of six (6) months**. Vote carried 5 – 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.

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Ms. Hudson presented the case. Tim Sopko and Todd Hickman were sworn in and testified requesting a variance for 3 additional ground signs on a parcel; that the development has two different builders; that the sign is needed to show the two separate builders; and that two signs will be placed on Route 9 to give motorists time to enter the development.

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

The Board members 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 case be **left open for the staff report on the permitted signs**. Vote carried 5 – 0.

Case No. 9258 – NV Homes – south of Road 359, 1,870 feet east of Road 357, within The Fresh Pond development.

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

Ms. Hudson presented the case. Tim Sopko and Todd Hickman were sworn in and testified requesting a special use exception to place a manufactured home type structure as a sales office; that the unit will be used as a sales office; that the unit will not be needed once the model is constructed; and that there will be no kitchen and the unit will be landscaped.

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 six (6) months**.
Vote carried 5 – 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.

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Ms. Hudson presented the case. Ralph Lopez and Marie Ferguson were sworn in and testified requesting an 8-foot 11-inch variance from the required 10-foot side yard setback requirement for a proposed manufacture home; that they want to replace the existing single-wide unit with a double-wide unit; that the variance will allow for a deck and some landings to exit and enter the unit; that there have been numerous variances granted in the development; and that the neighbors have no objection 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 case be **tabled until November 7, 2005**. Vote carried 5 – 0.

Case No. 9260 – Eastern Associates LLC – west of Route 22, north of Burrwood Court, being Lot 36 within Highview development.

A variance from the front yard setback requirement.

Ms. Hudson presented the case. Bill McMahon was sworn in and testified requesting a 5.7-foot variance from the required 30-foot front yard setback requirement for a set of steps; that he has been building for 10-years; that he was not aware that setbacks were an issue for steps; that he has tried to reconfigure the steps to comply with the setbacks; that the dwelling was built on pilings to protect it from flooding; and that he submitted pictures.

Ms. Hudson stated that the office received 2 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. Hudson, and carried unanimously that the variance be **granted since it will not alter the character of the neighborhood and since it is a minimum variance to afford relief**. Vote carried 5 – 0.

Case No. 9261 – W. Bruce Marine – north of Road 280B, 1,350 feet east of Road 285.

A variance from the side yard setback requirement.

Ms. Hudson presented the case. W. Bruce Marine was sworn in and testified requesting a 10-foot variance from the required 15-foot side yard setback requirement for

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an existing dwelling; that he recently purchased the property; that the survey showed that the dwelling did not meet the setback requirements; that he plans to build a new dwelling on Parcel I; and that a Certificate of Compliance was issued.

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 that the variance be **granted since it was not created by the Applicant and since it will not alter the character of the neighborhood**. Vote carried 5 – 0.

Case No. 9262 – Mitchell and Rosemary Berkowitz – west of Route One, west of Alda Lane Extended, being Lot 52 within Bay View Park development.

A variance from the side yard setback requirement.

Ms. Hudson presented the case. Mitchell Berkowitz was sworn in and testified requesting a 3.9-foot variance from the required 10-foot side yard setback requirement for an existing second floor enclosure; that he obtained the building permit in May 2003; that he enclosed a portion of the existing deck; that he was not aware of the setback violation until he was notified by the County; that his neighbors have no objection to the application; and that he submitted pictures.

Ms. Hudson stated that the office received 8 letters in support of the application.

Ms. Hudson stated that the office received 3 letters in opposition to the application.

In rebuttal, Mitchell Berkowitz, stated that he has been a resident for 20-years and has never received any correspondence from the Homeowner's Association.

Motion by Mr. Hudson, seconded by Mr. Workman, and carried unanimously that the variance be **granted since it will not alter the character of the neighborhood and since there have been other variances granted in the development.** Vote carried 5 – 0.

Case No. 9263 – Jenstar of Delmarva LLC – east of U.S. Route 13, 2,000 feet south of Road 64.

A variance from the front yard setback requirement for sales display.

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Ms. Hudson presented the case. Jeff Finney was sworn in and testified requesting a 37-foot variance from the required 40-foot front yard setback requirement for a sales display; that he is the manager of Hale Trailers; that the adjacent property is wooded and obstructs the view of his property; that they sell office trailers, storage containers and trailers; that there is no adverse effect to the neighbors; and that he submitted pictures.

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 for Hale Trailers to display their products only.** Vote carried 5 – 0.

OLD BUSINESS

Case No. 9241 – John Bamberger – west of Route One, south of Center Avenue, being Lot AAA within Sea Air Mobile City Mobile Home Park.

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

The Board discussed the case which has been tabled since October 3, 2005.

Motion by Mr. McCabe, seconded by Mr. Workman, and carried unanimously that the variance be **denied.** Vote carried 5 – 0.

Case No. 9242 – Edward McCauslin – west of Road 362, south of Maple Street, being Lot 13, Section 1 within Shady Dell Park development.

A variance from the front yard setback requirement.

The Board discussed the case which has been tabled since October 3, 2005.

Motion by Mr. McCabe, seconded by Mr. Hudson, and carried unanimously that the variance be **granted since it will not alter the character of the neighborhood and with a letter sent to the carport sales company**. Vote carried 5 – 0.

OTHER BUSINESS

Case No. 8465 – Ronald Finelli and Tracie Miller – north of Route 54, south of Swann Drive, being Lot 10-A within Swann Point Development.

A variance from the front yard setback requirement.

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Ms. Hudson read a letter from the Applicant requesting a time extension.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the request for a time extension be **denied**. Vote carried 5 – 0.

Case No. 8710 – David W. Fishell – southeast intersection of Route 54 and Road 389.

A variance from the front yard setback requirement for a through lot.

Ms. Hudson read a letter from the Applicant requesting a time extension.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the request for a time extension be **granted for a period of one (1) year**. Vote carried 5 – 0.

Case No. 8723 – Raab Ford Partnership – south of Route 54, west of Cape Windsor Development entry, being within Verandah Bay.

A variance from the front yard setback requirement and a variance from the front yard setback requirement for a sign.

Ms. Hudson read a letter from the Applicant requesting a time extension.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the request for a time extension be **granted for a period of one (1) year**. Vote carried 5 – 0.

Case No. 8805 – John and Linda Brzoska – south of Road 277, west of Elmwood Avenue West, being Lot 16 and ½ of Lot 15, Block C, Section 1, within Angola By The Bay Development.

A variance from the front yard setback requirement.

Ms. Hudson read a letter from the Applicant requesting a time extension.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the request for a time extension be **granted for a period of one (1) year**. Vote carried 5 – 0.

Meeting Adjourned 9:17 p.m.