

MINUTES OF FEBRUARY 17, 2014

The regular meeting of the Sussex County Board of Adjustment was held on Monday, February 17, 2014, 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, Mr. Jeff Hudson, and Mr. Norman Rickard, with James Sharp – Assistant County Attorney, and staff members, Mr. Lawrence Lank – Director of Planning and Zoning, and Mrs. Jennifer Norwood – Recording Secretary.

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

Motion by Mr. Mills, seconded by Mr. Rickard, and carried unanimously to approve the Minutes and Finding of Facts for December 16, 2013 as circulated. Motion carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes and Finding of Facts for January 6, 2014 as circulated. Motion carried 5 – 0.

Mr. Sharp read a statement explaining how the Board of Adjustment meeting is conducted and the procedures for hearing the cases.

PUBLIC HEARINGS

Case No. 11336 – Neil Newhouse & Mary Newhouse – west of Route One and being south of Assawoman Street 80 feet west of Davis Street and across from Wilgus Street, and being Lot 25 in Bay View Park. (Tax Map I.D. 1-34-20.12-15.00)

An application for a variance from the rear yard setback requirement.

Mr. Lank presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

Neil Newhouse and Mary Newhouse were sworn in to testify about the Application. James Fuqua, Esquire, presented the case to the Board on behalf of the Applicants and submitted exhibits for the Board to review.

Mr. Fuqua stated that the Applicants are requesting a variance of six (6) feet from the ten (10) feet rear yard setback requirement for a proposed dwelling and deck; that the Property is located in Bayview Park where many lots front on Assawoman Bay or are located on canals; that the lot is unique in shape as it is shaped like a triangle; that the lot has 116 feet of road frontage on Assawoman Street and is 101 feet deep on the East side; that the rear of the lot is bordered by the Assawoman Bay; that there is no west side of the lot due to the triangular shape; that the Applicants plan to replace the existing dwelling with a new dwelling; that the proposed dwelling will be a

three (3) story structure; that the decks will be on the second and third floors of the dwelling; that the dwelling will be built on pilings; that the second floor will be the first floor of living space; that the lot has a shallow rear yard due to its unique shape; that the difficulty of building a dwelling on the Property is due to its unique shape; that the variance is necessary to enable reasonable use of the Property; that the proposed dwelling will not alter the character of the neighborhood; that the difficulty has not been created by the Applicants; that the variance requested is the minimum variance necessary to afford relief; that the proposed dwelling and decks will not adversely affect the surrounding and neighboring properties as the dwelling will be attractive and will enhance property values in the neighborhood; that the variance will have no impact on neighboring properties since the rear yard is adjacent to Assawoman Bay rather than being adjacent to another lot; that, due to the angle of the lot the proposed dwelling, will not block any neighbor's views of the Assawoman Bay; and that there have been approximately twenty-five (25) variances, including six (6) variances near the Property, granted in the development.

Mr. Newhouse, under oath, confirmed the statements made by Mr. Fuqua. Mr. Newhouse also testified that the proposed dwelling will be less than 4,000 square-feet in size; that the bulkhead is in good condition; and that the existing shed will be removed.

Mr. Lank stated that the existing dwelling was granted a front yard variance in 1991.

The Board found that one (1) party appeared in support of the Application.

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

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11336 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The Property is unique due to its triangular shape;
2. The variance is necessary to enable reasonable use of the Property;
3. The difficulty was not created by the Applicants;
4. The variance will not alter the essential character of the neighborhood;
5. The variance sought is the minimum variance necessary to afford relief; and
6. The variance requested represents the least modification of the regulation at issue.

Motion by Mr. Rickard, seconded by Mr. Mills, and carried unanimously that the variance be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, Mr. Mills – yea, and Mr. Callaway – yea.

Case No. 11337 – Stanley E. Banks & Patsy C. Banks – west of Route 13A (Seaford Road) 900 feet south of the Town of Blades. (Tax Map I.D. 1-32-1.19-35.01)

An application for variances from the side yard and rear yard setback requirements.

Mr. Lank presented the case and read a letter of support to the Application into the record.

Stanley Banks was sworn in to testify about the Application. Shannon Carmean Burton, Esquire, presented the case to the Board on behalf of the Applicants and stated that the Applicants are requesting a variance of 8.5 feet from the ten (10) feet side yard setback requirement for an existing swimming pool and a variance of 9.9 feet from the twenty (20) feet rear yard setback requirement for an existing pole building; that the survey submitted with the Application has been revised and she submitted the revised copy to the Board; that the revised survey shows a variance of 9.9 feet is needed from the twenty (20) feet rear yard setback requirement; that a lot of brush is located in the rear of the Property and the surveyor believed that the existing pole building was a permitted, non-conforming structure; that the survey submitted with the Application did not have an accurate measurement of the rear yard; and that the Applicants had the surveyor re-survey the Property to accurately measure the pole building once they realized it was on the Application for tonight.

Mrs. Burton stated that the Applicants purchased the Property in August 1975; that the pool was installed by American Pools in 1988; that the Applicants believed that American Pools obtained the building permit and the Applicants were unaware of the encroachment; that the deck is attached to the pool and the house; that American Pools went out of business; that the Applicants were unaware of the encroachment until they attempted to sell the Property and a survey completed for settlement showed the encroachments; that there is a six (6) foot high fence along the Property line which shields the neighboring property; that the neighboring property is owned by Ms. Banks' mother who supports the Application; that the Property is unique in shape; that the difficulty was not created by the Applicants; that the Applicants relied on American Pools to install the pool in compliance with the Sussex County Code; that the variances will enable reasonable use of the Property; that the pool is connected to the dwelling with an existing deck which was installed in 1988; that the pool cannot be moved due to its age; that the pool and pole building do not alter the character of the neighborhood; that the use is not detrimental to the public welfare; that the use does not impair the development of adjacent and neighboring properties; that the Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code; that the Applicants have received no complaints about the pool, deck, or pole building; that the variances requested are the minimum variances necessary to afford relief; that the original pole building was a legal, non-conforming structure; that, in 1993, the Applicants had to replace the building due to storm damage; that the new pole building was constructed in the same location as the original pole building; that a Certificate of Compliance was issued for the pole building in 1993; that the variance for the pole building was added to this Application in order to bring the Property into compliance with the Sussex County Zoning Code; that the shape of the Property is unique; that the

difficulty was not created by the Applicants; that the pole building is located on a permanent foundation and cannot be moved; and that the pole building does not alter the essential character of the neighborhood.

Mr. Banks, under oath, confirmed the statements made by Mrs. Burton.

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

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11337 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The Property is unique in shape;
2. The variances are necessary to enable reasonable use of the Property;
3. The difficulty was not created by the Applicants;
4. The Applicants would suffer an unnecessary hardship if required to move the pool, deck and pole building into compliance with the Sussex County Zoning Code;
5. The variances will not alter the essential character of the neighborhood; and
6. The variances sought are the minimum variances necessary to afford relief.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the variances be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

Case No. 11338 – RealDar LLC – east of Route One and being southwest of E. Isaacs Drive 110 feet northwest of Melson Road and being Lot 23 Midway Park Subdivision. (Tax Map I.D. 3-34-6.00-109.00)

An application for variances from the front yard, side yard, and rear yard setback requirements.

Mr. Lank presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

Barbara Dar was sworn in to testify about the Application. Kenneth Feaster, Esquire, was present on behalf of the Applicant and stated that the Applicant is requesting a variance of 18.2 feet from the thirty (30) feet front yard setback requirement for an existing dwelling, a variance of 24 feet from the thirty (30) feet front yard setback requirement for an existing porch, a variance of 2.6 feet from the five (5) feet rear yard setback requirement and a variance of 0.8 feet from the five (5) feet side yard setback requirement for an existing shed.

Ms. Dar testified that she owns the Property with her husband through a Limited Liability Company they own; that they purchased the Property on May 27, 2004, and were unaware of any encroachments at that time; that they only learned about the setback violations when trying to sell the Property and a recent survey completed for settlement showed the encroachments; that the shed and dwelling are on permanent foundations; that the shed is a permanent, framed structure; that the shed and a portion of the dwelling would have to be demolished to bring the structures into compliance with the Sussex County Zoning Code; that the Applicant would experience an exceptional practical difficulty if the Property was to be required to be brought into compliance with the Sussex County Zoning Code; that the Property is narrow and long making it unique; that the dwelling lines up with other dwellings in the community; that there are similar sheds in the area; that the Applicant is unable to acquire more land to bring the Property into compliance; that the variances are necessary to enable reasonable use of the Property; that the structures were in their existing location on the Property when the Applicant purchased the Property in 2004; that the difficulty was not created by the Applicant; that the variances, if granted, will not alter the essential character of the neighborhood; that the use is not detrimental to the public welfare; that the variances are the least modifications necessary to afford relief; and that the neighbors have not had any objections to the Application.

Mr. Feaster stated that they believe the conditions for granting a variance have been met; that the conditions are unique; that the Applicant will experience a hardship if the variances are not granted; that it would be unreasonable to require that the Property be brought into compliance with the Sussex County Zoning Code; that the Applicant did not create the difficulty; that the dwelling and the shed do not alter the character of the neighborhood and do not alter the public welfare; and that the variances are the minimum variances necessary to afford relief.

The Board found that one (1) party appeared in support of the Application.

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

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11338 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The Property is long and narrow which makes it unique;
2. The variances are necessary to enable reasonable use of the Property;
3. The difficulty was not created by the Applicant as these structures were in their current location when the Applicant purchased the Property;
4. The variances will not alter the essential character of the neighborhood; and
5. The variances sought are the minimum variances necessary to afford relief.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the variance be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

Case No. 11339 – Joanne Johnson – southeast of State Road 368 (Beaverdam Road) 600 southwest of Route 362 and being north of Ocean Air Drive at B-11 within Ocean Air Subdivision. (Tax Map I.D. 1-34-16.00-782.00)

An application for variances from the front yard and side yard setback requirement.

Mr. Lank presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

Joanne Johnson was sworn in to testify about the Application. Raymond Tomasetti, Esquire, was present on behalf of the Applicant and stated that the Applicant is requesting a variance of 11.9 feet from the forty (40) feet front yard setback requirement for an existing dwelling, a variance of 11.4 feet from the forty (40) feet front yard setback requirement for an existing shed, and a variance of 2.1 feet from the five (5) feet side yard setback requirement for an existing shed.

Mr. Tomasetti stated that the Applicant purchased the Property in 2002 and was unaware of the encroachments at that time; that the Applicant's husband has passed away and the Applicant is selling the Property; that a survey completed for settlement showed the encroachments; that after the Applicant purchased the Property in 2002, the State of Delaware acquired a strip of five (5) feet of the front yard of the Property along Beaverdam Road; that, in 1991, a previous owner was granted a 5.5 feet front yard variance; that the two (2) sheds were on the Property in their current location when the Applicant purchased the Property; that the Property is triangular in shape and is surrounded by three (3) roads; that the dwelling was in its current location since at least 1991; that the Applicant did not create the hardship; that the variances are necessary to enable reasonable use of the Property; that the sheds cannot be moved into compliance with the Sussex County Zoning Code due to the small building envelope; that the variances will not alter the essential character of the neighborhood; that there have been other variances granted in the area; that the use is not detrimental to the public welfare; and that the variances sought are the minimum variances to afford relief.

Ms. Johnson, under oath, confirmed the statements made by Mr. Tomasetti.

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

Mr. Hudson stated that he would move that the Board recommend approval of Variance Application No. 11339 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The Property is unique as it is triangular in shape and is surrounded by three (3) roads;
2. The Property cannot be otherwise developed in strict conformity with the Sussex County Zoning Code;
3. The State of Delaware has acquired portions of the land;
4. The difficulty was not created by the Applicant;
5. The variances will not alter the essential character of the neighborhood; and
6. The variances sought are the minimum variances necessary to afford relief.

Motion by Mr. Hudson, seconded by Mr. Rickard, and carried unanimously that the variances be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

Case No. 11340 – Susan McCreary & Donald McCreary – southwest of Route One (Coastal Highway) and being northwest of Ann Avenue 100 feet southwest of South Avenue and being Lot 35 in Poynters Addition Subdivision. (Tax Map I.D. 3-34-20.13-21.00)

An application for a variance from the side yard setback requirement.

Mr. Lank presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

Susan McCreary and Donald McCreary were sworn in and testified requesting a variance of 5.8 feet from the ten (10) feet side yard setback requirement for a proposed porch. Mr. McCreary testified that the Property is in a community where the lots are fifty (50) feet wide by one-hundred (100) feet deep; that the Applicants acquired a lot adjacent to their home in hopes of integrating the two properties; that the Property has an existing dwelling which encroaches into the setback area; that the proposed porch will line up with the existing dwelling; that the existing dwelling is a pre-existing, non-conforming structure; that the Applicants own the adjacent lot on the side where the porch will encroach; that the Applicants are renovating the existing home and the porch will match the dwelling; that the existing dwelling is on a foundation; and that the proposed porch will not alter the character of the neighborhood.

Mrs. McCreary testified that, to build the porch into compliance, would look out of place and not be usable.

Mr. McCreary testified that the porch will not damage the structure of the existing house.

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

Motion by Mr. Workman, seconded by Mr. Rickard, and carried unanimously that the case be taken under advisement. Motion carried 5 – 0.

The vote by roll call; Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

At the conclusion of the public hearings, the Chairman referred back to this case. Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11340 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The Property is unique;
2. The variance is necessary to enable reasonable use of the Property;
3. The difficulty was not created by the Applicants because the lot and existing dwelling are small;
4. The variance will not alter the essential character of the neighborhood;
5. The variance sought is the minimum variance necessary to afford relief; and
6. The variance represents the least modification of the regulation at issue.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the variance be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

Case No. 11341 – Jeffrey S. Lafferty – north of Route 54 (Lighthouse Road) and being northwest of Laws Point Road 0.4 mile north of Swann Drive and being Lot 43 Block F, Section B Swann Keys Subdivision. (Tax Map I.D. 5-33-12.16-260.00)

An application for a variance from the side yard setback requirement.

Mr. Lank presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

Jeffrey Lafferty was sworn in and testified requesting a variance of four (4) feet from the ten (10) feet side yard setback requirement for a proposed porch, a variance of 1.2 feet from the five (5) feet side yard setback requirement for an existing deck, and a variance of 0.2 feet from the five (5) feet side yard setback requirement for an existing detached shed. Mr. Lafferty testified that he purchased the Property one (1) year ago; that he plans to enlarge the existing deck and enclose it with a screen porch and roof; that there will not be an adverse effect to the neighborhood; that the steps are needed to access that side of the Property; that the existing lagoon takes away a portion of his property which limits his buildable area; that the side deck towards the front of the

dwelling has been in its current location since he purchased the Property; that he replaced an existing shed with the same size shed and in the same footprint; that he was not aware the shed did not meet the required setbacks when he replaced it; that the shed is detached from the dwelling; that the two (2) surveys submitted show the shed to be in the same location; and that his neighbors have no objection to the Application.

The Board found that one (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. Rickard, and carried unanimously that the case be taken under advisement. Motion carried 5 – 0.

The vote by roll call; Mr. Workman – yea, Mr. Rickard – yea, Mr. Hudson – yea, Mr. Mills – yea, and Mr. Callaway – yea.

At the conclusion of the public hearings, the Chairman referred back to this case. Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11341 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The Property is unique as it is only fifty (50) feet wide;
2. The variances are necessary to enable reasonable use of the Property;
3. The difficulty has not been created by the Applicant;
4. The variances will not alter the essential character of the neighborhood; and
5. The variances sought are the minimum variances necessary to afford relief.

Motion by Mr. Rickard, seconded by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the variance be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

Case No. 11342 – Richard Dohler – south of Route 54 (Lighthouse Road) and being east of Rossevelt Avenue 1,378 feet sought of Lincoln Drive being Lot 27 Block 7 in Cape Windsor Subdivision. (Tax Map I.D. 5-33-20.18-8.00)

An application for variances from the side yard and rear yard setback requirements.

Mr. Lank presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

Richard Dohler and Bonna Dohler were sworn in and testified requesting a variance of five (5) feet from the ten (10) feet side yard setback requirement and a variance of five (5) feet from the twenty (20) feet rear yard setback requirement for a proposed dwelling.

Richard Dohler testified that the Applicants purchased the Property in 2013; that the Property is located within the Cape Windsor development; that the Applicants plan to remove the existing manufactured home and shed and place a new dwelling on the Property; that most of the lots in the development have a ten (10) foot side yard setback requirement on one side and a five (5) feet side yard setback on the opposite side; that all the lots on this street use the five (5) feet side yard setback on one side of the Property; that the lot measures fifty (50) feet wide by one-hundred (100) feet deep, which makes it a narrow lot; that the use will not adversely impact the neighborhood; that the use will be in character of the neighborhood; that there will be no hardships to the neighboring properties; that the setback requirements were changed for the development in October 1993; that the proposed two (2) story dwelling will be the same distance from the Property line as the existing manufactured home; and that the Applicants will access the dwelling from underneath.

Mr. Lank provided a history of the setbacks for Cape Windsor.

The Board found that two (2) parties appeared in support to the Application.

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

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11342 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The Property is unique in size as it is only fifty (50) feet wide;
2. The variances are necessary enable reasonable use of the Property;
3. The difficulty was not created by the Applicant;
4. The variances will not alter the essential character of the neighborhood;
5. The variances sought are the minimum variances necessary to afford relief; and
6. The variances represent the least modifications possible of the regulations at issue.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the variances be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

Case No. 11343 – Sandra D. Fryling – south of Route 20 (Concord Road) 300 feet east of Nanticoke Circle and being Lot 4 in Nanticoke Acres Annex Subdivision. (Tax Map I.D. 1-32-2.00-234.00)

An application for a variance from the side yard setback requirement.

Mr. Lank presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

Sandra Fryling and Patricia Hamstead were sworn in and testified requesting a variance of 0.3 feet from the ten (10) feet side yard setback requirement for a non-conforming dwelling and a variance of 5.8 feet from the ten (10) feet side yard setback requirement for an existing shed. Ms. Hamstead testified that the Applicants are sisters and inherited the Property from their parents who purchased the Property in 1951; that their father constructed the shed in 1984; that they sold the Property; that a survey completed for the sale of the Property showed the encroachment; that the carport attached to the shed lines up with the existing driveway; that the prospective buyer would like the existing structures to remain in place; that the inheritance created a unique situation; that they were not aware of the setback violation; that the carport lines up with the driveway and is the only access to that side of the Property; and that the variances are necessary to enable reasonable use of the Property. Ms. Hamstead submitted pictures to the Board.

Ms. Hamstead testified that the variances will not alter the character of the neighborhood; that the house on the adjacent property is currently vacant; and that the use is not detrimental to the public welfare.

Ms. Fryling testified that you cannot drive a car through the carport; that the structure was used as storage and a workshop; that her father stored classic cars in the carport and did not use the carport as part of the dwelling; and that they sold the Property earlier this year.

Mr. Lank stated that the dwelling was constructed in 1950 and is considered a non-conforming dwelling.

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

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11343 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The Property is unique due to its narrow width;
2. The variances are necessary to enable reasonable use of the Property;
3. The difficulty was not created by the Applicants;
4. The variances will not alter the essential character of the neighborhood; and

5. The variances sought are the minimum variances necessary to afford relief.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the variance be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

Case No. 11344 – Mr. & Mrs. Jeffrey Bradley – east of Route One (Coastal Highway) and being 500 feet east of Hall Avenue and being Lot 15 in The Chancellery Subdivision. (Tax Map I.D. 3-34-23.10-24.00)

An application for a variance from the front yard setback requirement.

Mr. Lank presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

Donna Villoni was sworn in to testify about the Application. Shannon Carmean Burton, Esquire, presented the case to the Board on behalf of the Applicants and stated that the Applicants are requesting a variance of seventeen (17) feet from the thirty (30) feet front yard setback requirement for a proposed stairway. Mrs. Burton submitted exhibits to the Board. Mrs. Burton stated that the Applicants purchased the Property in July 2013; that Mr. Bradley has been relocated to Miami by his employer and is unable to attend the hearing; that signed affidavits from the Applicants have been submitted to the Board in the exhibits; that Ms. Villoni is the chief operating officer of Bunting Construction; that a single-family dwelling currently exists on the Property; that the previous owner was handicapped and the dwelling was designed to accommodate the previous owner; that the Applicants plan to renovate the dwelling; that the proposed dwelling will have a second floor entrance like other dwellings in the area; that the stairs will encroach into the setback area; that the ground level floor will be storage and garage parking; that the Property is ocean front and in a flood zone which makes the Property unique; that the Delaware Department of Natural Resources and Environmental Control (“DNREC”) building line significantly limits the Property’s buildable area; that the difficulty has not been created by the Applicants; that the variance is necessary to allow for second floor entry to the dwelling while maintaining the footprint of the existing dwelling; that parking is very limited in The Chancellery development; that the variance will not alter the character of the neighborhood; that the variance will not be detrimental to the public welfare; that the neighbors and the Homeowners Association support the Application; that the variance requested is the minimum variance necessary to afford relief; that the proposed stairwell will allow room for parking; that the garage entrances are located on both sides of the proposed stairwell; that the location of the stairwell is needed to maintain access to the existing garages; that the variance will enable reasonable use of the Property; and that the existing first floor footprint will not change.

Ms. Villoni testified that she has consulted with the Applicants and she confirmed the statements made by Ms. Burton as being true and correct.

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

Mr. Mills stated that he would move that the Board recommend approval of Variance Application No. 11344 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The Property is unique due to the established footprint of the existing dwelling;
2. The variance is necessary to enable reasonable use of the Property as the dwelling will potentially house many occupants which will necessitate more vehicles;
3. The variance will not alter the essential character of the neighborhood;
4. The use will not be detrimental to the public welfare; and
5. The variance sought is the minimum variance necessary to afford relief.

Motion by Mr. Mills, seconded by Mr. Rickard, and carried unanimously that the variance be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, Mr. Mills – yea, and Mr. Callaway – yea.

Case No. 11345 – Mary Hauser & Frederick Hauser – north of Route 54 (Lighthouse Road) and being northwest of Swann Drive ½ mile northeast of Laws Point Road and being Lot 45 Block A Swann Keys Subdivision. (Tax Map I.D. 5-33-12.16-531.00)

An application for a variance from the side yard setback requirement.

Mr. Lank presented the case and stated that the Office of Planning and Zoning had received any letters in support of the Application. Mr. Lank read one (1) letter of opposition to the Application into the record.

Frederick Hauser and Mary Hauser were sworn in and testified requesting a variance of five (5) feet from the ten (10) feet side yard setback requirement for a proposed addition. Mrs. Hauser submitted an email from Jane Nock in support of the Application. Mr. Hauser testified that the Property is located in Swann Keys; that the variance request is similar to other variance requests which have been granted in the development; that they seek to build an addition to their existing mobile home on the Property; that the proposed addition will be used for additional living space with an open porch; that the existing manufactured home measures sixteen (16) feet by seventy (70) feet; that the proposed addition will be at least twelve (12) feet from the neighbors' dwelling; that the addition will not alter the character of the neighborhood; that a two (2) story dwelling is on the adjacent lot; and that the variance will not be detrimental to public welfare.

Mr. Lank stated that there have been variances previously granted on nearby properties.

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

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11345 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The Property is unique in size as it is only forty (40) feet wide;
2. The variance is necessary to enable reasonable use of the Property as the Applicants intend to use the space for additional living space and storage;
3. The difficulty was not created by the Applicants;
4. The variance will not alter the essential character of the neighborhood as similar variances have been granted in the neighborhood; and
5. The variance sought is the minimum variance necessary to afford relief.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the variance be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

OLD BUSINESS

Case No. 11330 – Thomas E. Ream – south of Route 9 (Lewes Georgetown Highway) 1,700 feet east of Road 262 (Fisher Road) and north of Penn Central Railroad. (Tax Map I.D. 2-35-31.00-11.04)

An application for a special use exception to place an off-premise sign.

The Board discussed the case which has been tabled since February 3, 2014.

Mr. Mills stated that he would move that the Board recommend denial of Special Use Exception Application No. 11330 for the requested special use exception based on the record made at the public hearing because the use will substantially adversely affect the uses of adjacent and neighboring properties.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the special use exception be **denied for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Workman – yea, Mr. Rickard – yea, Mr. Hudson – yea, Mr. Mills – yea, and Mr. Callaway – yea.

Case No. 11333 – Bret Shue & Melinda Shue – south of Route 54 (Lighthouse Road) and being south of Pine Road, 900 feet west of Holly Road and being Lot 13 Keen-wik Subdivision. (Tax Map I.D. 5-33-19.12-68.00)

An application for variances from the front yard and side yard setback requirements.

The Board discussed the case which has been tabled since February 3, 2014.

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11333 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The Property is unique due to the existing rip rap and its narrow width;
2. The variances are necessary to enable reasonable use of the Property;
3. The difficulty was not created by the Applicants;
4. The variances will not alter the essential character of the neighborhood; and
5. The variances sought are the minimum variances necessary to afford relief.

Motion by Mr. Rickard, seconded by Mr. Hudson, and carried unanimously that the variances be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Workman – yea, Mr. Rickard – yea, Mr. Hudson – yea, Mr. Mills – yea, and Mr. Callaway – yea.

Case No. 11310 – Zea LLC – northeast corner of Bunting Avenue and West Virginia Avenue and 450 feet east of Route One (Coastal Highway) and being Lot 1 E in the unincorporated section of Fenwick Island. (Tax Map I.D. 1-34-23.16-329.00)

An application for variances from the side yard, rear yard and corner side yard setback requirements.

The Board discussed the case which has been tabled since February 3, 2014. Mr. Workman recused himself from discussion and voting on this Application since he was not present when the Application was presented.

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11310 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The width of the lot creates a uniqueness to the Property;
2. The proposed dwelling will be a single-family dwelling, not a duplex or condominium rental;

3. The variances are necessary to enable reasonable use of the Property;
4. The difficulty was not created by the Applicant;
5. The variances will not alter the essential character of the neighborhood as there are similar type dwellings in the neighborhood;
6. The variances sought are the minimum variances necessary to afford relief; and
7. The variances sought represent the least modifications of the regulations at issue.

Motion by Mr. Rickard, seconded by Mr. Hudson, and carried that the variances be **granted for the reasons stated**. Motion carried 3 – 1.

The vote by roll call; Mr. Mills – nay, Mr. Hudson – yea, Mr. Rickard – yea, and Mr. Callaway – yea. Mr. Workman abstained from voting due to absence during the public hearing.

Meeting Adjourned 9:50 p.m.