

## **MINUTES OF OCTOBER 20, 2014**

The regular meeting of the Sussex County Board of Adjustment was held on Monday, October 20, 2014, at 7:00 p.m. in the County Council Chambers, County Administration Office Building, Georgetown, Delaware.

The meeting was called to order at 7:00 p.m. with Chairman Dale 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 circulate. Motion carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Rickard, and carried unanimously to approve the Minutes and Finding of Facts for September 8, 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. 11468 – Banc Holdings, LLC** – north side of Route 9 (Lewes Georgetown Highway) 0.45 mile east of County Road 249 (Shingle Point Road) (911 Address: None Available) (Tax Map I.D. 1-35-16.00-73.00)

An application for variances 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.

Bradford Riedle was sworn in to testify about the Application. Chad Meredith, Esquire, presented the case to the Board on behalf of the Applicant and submitted exhibits for the Board to review.

Mr. Meredith stated that the Applicant is requesting a variance of 21.4 feet from the sixty (60) feet front yard setback requirement for an existing building and a variance of 21.6 feet from the sixty (60) feet front yard setback requirement for another existing building; that the buildings were built in 2002 and 2006; that the front yard setback requirement was forty (40) feet at the time of the construction of the buildings; that the front yard setback requirement has since been expanded to sixty (60) feet; that Certificates of Compliance were issued for the buildings; that the Applicant purchased the Property at a Sheriff's sale in January 2012; that a predecessor in title constructed the buildings; that the area has a mixed use with residential and commercial properties nearby; that there are other commercial buildings similarly situated on the adjacent properties; that, in the 1960s, the Delaware Department of Transportation ("DelDOT") had an easement

agreement to acquire five (5) feet on the north side of the Property adjacent to Route 9; that the change in the setback requirement makes the Property unique; that it would create an exceptional practical difficulty and undue hardship to move the buildings into compliance and there would be little to no benefit to neighboring properties; that the variances are necessary to enable reasonable use of the Property; that the Property cannot otherwise be developed; that the difficulty was not created by the Applicant; that the variances do not alter the character of the neighborhood; that the variances will not substantially or permanently impair the uses of the neighboring or adjacent properties as those properties are already developed; that the use is not detrimental to the public welfare; that the variances are the minimum variances to afford relief; and that the variances represent the least modifications of the regulation at issue.

Bradford Riedel testified that he has been a realtor for 27 years; that he has worked in the area for twelve (12) years and is familiar with the Property; that there is no negative affect to the surrounding property values; and that he confirms the statements made by Mr. Meredith.

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. 11468 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The change in the setback requirements created a unique situation;
2. The variances are necessary to enable reasonable use of the Property;
3. The exceptional practical difficulty was not created by the Applicant;
4. The variances will not alter the essential character of the neighborhood as other buildings in the neighborhood appear to be a similar distance from the road;
5. The variances sought are the minimum variances necessary to afford relief; and
6. The variances represent the least modifications of the regulation 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. 11469 – DRC Properties, LLC** – east of Old Mill Bridge Road (Road 381) approximately 300 feet north of Lighthouse Road (Route 54) (911 Address: None Available) (Tax Map I.D. 5-33-12.00-76.05)

An application for variances from the maximum length requirement for a multi-family buildings located in a development.

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.

Preston Dyer and Mark Davidson were sworn in and testified requesting a variance of 3.42 feet from the maximum length of 165 feet for a multi-family building and that the variances apply multiple buildings in the development.

Mr. Dyer testified that he is a member of the Applicant; that Sussex County Council rezoned the Property as HR1 (density residential) several years ago; that the Applicant placed a deed restriction limiting the construction to only 100 residential units on the Property; that the Sussex County Planning & Zoning Commission approved a site plan; that the original project was designed to accommodate six (6) unit villas not to exceed 165 feet long; that market conditions changed; that the national builder, who requested the originally approved plan, requested a change in the proposed villas to accommodate a master bedroom on the first floor and a single car garage; that the changes were made in response to the new market conditions; that the design change added 3.5 feet to the total length of originally proposed buildings which were 165 feet long; that 404 Non-Tidal Wetlands exist on the site at an irregular shape which makes the Property unique; that DelDOT imposed a restriction that the entrance to the community also serve the adjacent commercial property; that the irregular shaped borders and the wetland lines do not allow the newly designed buildings to be rearranged in such a manner to maintain the forty (40) feet separation requirement between units; that an exceptional practical difficulty exists; that, due to the maximum length requirement by the zoning code, the Property cannot otherwise be developed to accommodate the new design; that the variance is necessary to enable reasonable use of the Property; that the difficulty was not created by the Applicant; that the existence of the irregular shaped 404 Non-Tidal Wetlands boundary and market conditions created the difficulty; that the variances will not alter the essential character of the neighborhood since the required forty (40) feet separation requirement between buildings will be met; that the use will not substantially or permanently impair the appropriate use for development of adjacent properties, since the additional 3.42 feet is imperceptible by those within the Property or from the adjoining properties; that the use will not be detrimental to the public welfare; that the variance represents the least modification possible of the regulation at issue; that the variance requested is the minimum variance necessary to afford relief; that the roadway cannot be adjusted due to the DelDOT restriction; that the original villas were designed with a second floor master bedroom but the builder no longer builds master bedrooms on the second floor and the houses need to be larger to accommodate the first floor bedrooms; and that the garage is needed due to limited on-street parking.

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. 11469 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The limited access to the Property and the 404 Non-Tidal Wetlands make the Property unique;
2. The variances are necessary to enable reasonable use of the Property;
3. The exceptional practical difficulty was not created by the Applicant;
4. The variances will not alter the essential character of the neighborhood;
5. The use is not detrimental to the public welfare; and
6. The variances sought are the minimum variances 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. 11470 – Melissa Chandler & John Chandler** – north of Godwin School Road (Road 410) 990 feet west of Country Living Road (Road 433) (911 Address: 23431 Godwin School Road, Millsboro, DE) (Tax Map I.D. 1-33-16.00-76.11)

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.

Melissa Chandler was sworn in and testified requesting a variance of 2.6 feet from the fifteen (15) side yard setback requirement and a variance of 6.9 feet from the twenty (20) feet rear yard setback requirement for an existing detached garage; that her ex-husband contracted with a builder to construct the detached garage in 2002; that she is selling the Property and a survey completed for settlement showed the encroachments; that she was previously unaware of the encroachments; that the detached garage has a concrete floor and cannot be moved; that the detached garage lines up with the existing driveway; that the garage was placed in the rear corner of the Property; that the detached garage could not be moved to the opposite side of the Property due to the existing septic and well; that the variances are necessary to enable reasonable use of the Property; that the difficulty was not created by the Applicants; that the Property is unique; that the garage does not alter the character of the neighborhood; that she feels the garage enhances the neighborhood; that she has received no complaints about the garage; and that the variances requested are the minimum variances 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.

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. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, Mr. Mills – yea, and Mr. Callaway – yea.

At the conclusion of the public hearing, the Chairman referred back to this case. Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11470 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The situation and conditions surrounding the need for the variances are unique;
2. The variances are necessary to enable reasonable use of the Property;
3. The exceptional practical difficulty was not created by the Applicants;
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 sought represent the least modifications of the regulation 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. 11471 – Lynwood Romano & Patricia Romano** – northeast of Route 5 (Oak Orchard Road) and being northwest of Circle Drive 850 feet northeast of Circle Drive entrance off of Oak Orchard Road and being Lot 32 Block A Section II of Orchard Manor (911 Address: 33038 Circle Drive, Millsboro, DE) (Tax Map I.D. 2-34-34.08-137.00)

An application for variances 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.

Joe Romano and Nicole Romano were sworn in and testified requesting a variance of 2.5 feet from the ten (10) feet side yard setback requirement for both sides of the Property for a proposed manufactured home. Mrs. Romano testified that the Applicants are purchasing the Property from relatives and are purchasing a manufactured home from Clayton Homes to place thereon; that the Applicants would like to place the unit so the front door faces the road rather than facing sideways; that the proposed manufactured home will measure twenty-eight (28) feet by sixty (60) feet; that the lot measures seventy (70) feet by one-hundred forty (140) feet; that the Applicants seek a variance of 2.5 feet on both sides of the lot; that the lot is narrow in size which

makes it unique; that the previous singlewide manufactured home was placed sideways on the lot; that the Property cannot otherwise be developed in conformity with the Sussex County Zoning Code; that the Applicants would have to place the home sideways on the lot to meet the setback requirements; that the variances are not necessary to enable reasonable use of the Property because they would only have to turn the house sideways to meet the setback requirements; that the difficulty was not created by the Applicants; that the variance will enhance the curb appeal of the Property; that the variances will not alter the character of the neighborhood, since there are other units in the area situated similarly on the lot; that there is an open field to the rear of the Property; that the front door would face neighbors living room if placed sideways on the Property; that the variances are not necessary to afford relief; that the use will not be detrimental to the public welfare; that other homes in the neighborhood face the same direction; that the unit on the neighboring property to the west faces sideways on the lot; that the unit on the neighboring property to the east faces sideways as well but has an addition that faces the street; that the house across the street faces the street; that the Applicants would not need the variance if they turned the house sideways; that the proposed manufactured home is a 2014 and has a different look from the units on neighboring properties; that turning the house would look odd because the type of the house differs from the houses on neighboring properties; that the community is an older development that is evolving; that a porch attached to the house would be constructed in compliance with the Code; that there is an abandoned septic system on the lot; and that the Property is connected to central sewer.

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

The vote by roll call; Mr. Rickard – yea, Mr. Workman – yea, Mr. Mills - yea, Mr. Hudson – 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 denial of the requested variances based on the record made at the public hearing since the exceptional practical difficulty is being created by the Applicants.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the variance be **denied for the reasons stated**. Motion carried 5 – 0. During the vote, Mr. Hudson stated that he believed the proposed manufactured home was out of character for the immediate neighborhood and Mr. Workman stated that the home would face the road differently than neighboring homes.

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

**Case No. 11472 – Brooks Singer & Natalie Sinicrope** – northeast of Route One (Coastal Highway) and being southeast of Anna B Street, 100 feet southwest of Fisher Street and being Lot 20 Block E within Dodd’s Addition Subdivision (911 Address: None Available) (Tax Map I.D. 3-34-20.09-56.00-Unit 1)

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 received one (1) letter with mixed comments both in support and in opposition to the Application.

Brooks Singer was sworn in and testified requesting a variance of eight (8) feet from the ten (10) feet side yard setback requirement for a proposed screen porch on an existing patio and a variance of 0.3 feet from the five (5) feet rear yard setback requirement for an existing shed; that he plans to screen in the existing concrete patio; that the existing dwelling was built in 1948; that the existing structure is non-conforming; that he purchased the Property in 2010 as it exists; that the Property is unique since the development is non-conforming with many non-conforming lots; that the existing cement patio is approximately three (3) to four (4) feet high on the side of the house; that the patio is sixteen (16) feet long by eight (8) feet wide; that the variance is necessary to enable reasonable use of the Property; that the neighbors’ dwelling is 2.5 feet from the property line; that the patio has a steep drop and is dangerous to children and pets; that the variance will not alter the essential character of the neighborhood; that the variance will not impair the uses of neighboring properties; that the porch will enhance privacy; that the use will not be detrimental to the public welfare; that his neighbors support the Application; that the variance represents the least modification possible of the regulation at issue; that the proposed screen porch will not extend further than the existing patio; that the existing dwelling is a two (2) story duplex and he owns the first floor; that the owner of the second floor has a similar screen porch and has no objection to the Application; and that he will move the existing shed into compliance so no variance is needed for the shed. Mr. Singer submitted pictures for the Board to review.

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. 11472 for the requested variance for the porch only based on the record made at the public hearing and for the following reasons:

1. The non-conformity of the Property makes it unique;
2. The variance for the proposed porch is necessary to enable reasonable use of the Property;
3. The exceptional practical difficulty was not created by the Applicants;

4. The variance for the proposed porch will not alter the essential character of the neighborhood;
5. The variance for the proposed porch sought is the minimum variance necessary to afford relief; and
6. The variance for the proposed porch represents the least modification of the regulation at issue.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the variance **for the porch only 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. 11473 – William Deery & Diane Deery** – north of Lighthouse Road (Route 54) and being located at the end of Mason Dixon Annex Place, a private street, in Mason Dixon Annex Mobile Home Park (Unit 10) (911 Address: None Available) (Tax Map I.D. 1-34-23.20-68.00-Unit 16205)

An application for variances from the separation requirement between units in a mobile home park.

Mr. Lank presented the case and stated that the Office of Planning and Zoning had not received any correspondence regarding the Application.

William Deery, Diane Deery and Adam Roncs were sworn in and testified requesting a variance of 6.1 feet from the twenty (20) feet separation requirement between an accessory structure and a manufactured home, a variance of 10.2 feet from the twenty (20) feet separation requirement between units for a proposed deck, and a variance of 2.5 feet from the twenty (20) feet separation requirement between units in a mobile home park.

Mr. Roncs submitted two (2) letters in support of the Application. Mr. Roncs testified that the Applicants purchased a manufactured home with an existing addition in 2006; that the Applicants plan to replace the unit with a double-wide manufactured home; that the location of the proposed double-wide home will be farther away from neighboring homes than the existing manufactured home but the new home will not meet the required separation requirement; that the Property is unique because the mobile home park with cooperative land is an older community and has not been developed in strict conformity with the Sussex County Zoning Code; that the Property cannot be developed in strict conformity with the Code; that the variances will not alter the essential character of the neighborhood; that the home will be consistent with other homes which have been placed in the neighborhood; that the proposed home will increase property values within the neighborhood; that the variances represent the least modifications of the regulations at issue;



that the lot is surrounded by the lagoon on two (2) sides; and that the proposed mobile home is 23.3 feet wide.

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. 11473 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The lot size and the location of the lagoon make the Property unique;
2. The Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code;
3. The exceptional practical 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. Hudson, seconded by Mr. Mills, and carried unanimously that the variances be **granted for the reasons stated**. Motion carried 5 – 0.

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

**Case No. 11474 – Thomas J. Rockstroh** – south of Route 54 (Lighthouse Road) and being northwest corner of Wilson Avenue 720 feet south of Lincoln Drive and being Lot 20 Block 3 within Cape Windsor Subdivision (911 Address: 38832 Wilson Avenue, Selbyville, DE) (Tax Map I.D. 5-33-20.18-142.00)

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

Kerry Wertz and Charles Hayes were sworn in and testified requesting a variance of five (5) feet from the twenty (20) feet rear yard setback requirement for a proposed dwelling, a variance of 8.5 feet from the ten (10) feet side yard setback requirement for a proposed HVAC, a variance of (5) feet from the ten (10) feet side yard setback requirement for a proposed dwelling, and a variance of four (4) feet from the fifteen (15) feet corner side yard setback requirement for a proposed porch.

Mr. Wertz submitted four (4) letters in support of the Application and pictures for the Board to review. Mr. Wertz testified that the Applicant was unable to attend the hearing; that he is the

neighbor and Mr. Hayes is the contractor; that the existing dwelling was damaged beyond repair by Hurricane Sandy as Wilson Avenue was basically a river during the storm; that the existing dwelling is uninhabitable and is a detriment to the public welfare; that the lot is only 85 feet long making it unique; that Wilson Avenue is only nineteen (19) feet wide; that it is important for the dwellings on corner lots to be far from the intersection and away from the street to help with traffic issues; that the location of the proposed dwelling will enable cars to park on the Property without going into the street; that on-street parking is a major problem in Cape Windsor; that the Property cannot be developed in strict conformity with the Sussex County Zoning Code due to its narrowness and shallow depth; that the proposed dwelling is not a huge structure; that the variances are necessary to enable reasonable use of the Property; that the difficulty was not created by the Applicant; that the Property was undersized when it was initially developed; that the lot is at the corner of a "T" intersection making it unique; that the variances will improve the uses of neighboring and adjacent properties; that the current dwelling is only seven (7) feet from Wilson Avenue; that the variances will not be detrimental to the public welfare; that the variances represent the least modifications of the regulations at issue; that the HVAC unit will be placed in its proposed location to protect it from traffic; that the HVAC unit will be on the same side as the neighbor's HVAC unit; that the neighbor has no objection to the Application; that the Homeowners Association supports the Application; that the dwelling will be raised five (5) feet but there will not be any parking below the house; and that the house cannot be placed closer to Wilson Avenue because ten (10) feet of the front yard is needed to allow for off-street parking.

Mr. Hayes testified that he lives in Cape Windsor; and that he is the builder.

Mr. Wertz testified that the proposed dwelling will not alter the character of the neighborhood; that the variances will not impair the use of adjacent and neighboring properties; and that the Applicant has owned the Property since 1974.

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. 11474 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 fifty (50) feet wide and eighty-five (85) feet deep;
2. The variances are necessary to enable reasonable use of the Property;
3. The unnecessary hardship was not created by the Applicant;
4. The variances requested the minimum variances necessary to afford relief; and
5. The variances represent the least modifications 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.

The Board took a ten (10) minute recess.

**Case No. 11475 – Janet L. Bowden** – north of Road 92 (Frankford School Road) 3,280 feet west of Road 375 (Shockley Road) (911 Address: None Available) (Tax Map I.D. 5-33-1.00-16.01)

An application for a special use exception to retain an existing manufactured home type structure that is on less than ten (10) acres.

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.

Janet Bowden, Wanda Mumford and Max Morris were sworn in and testified requesting a special use exception to retain an existing manufactured type structure that is on less than ten (10) acres. Mr. Morris testified that he is a surveyor representing the Applicant; that the Applicant seeks permission to allow an existing manufactured home to remain on the Property; that the existing manufactured home was placed on the Property over thirty (30) years ago as a medical hardship so that the Applicant could care for her mother; that her mother passed away in 2014; that the medical hardship expired when the Applicant's mother passed away; that the special use exception will allow the Applicant to continue living in the manufactured home; that her sister now lives in the existing double-wide manufactured home which is also on the Property; that there are other single wide manufactured homes in the area; that the use does not substantially adversely affect the neighboring and adjacent properties; that the manufactured home is well-maintained; and that the Applicant has not received any complaints.

Ms. Bowden testified that the manufactured home is a 1990 model.

Mr. Morris testified that the manufactured home is skirted; that the yard is fenced; that the original home was replaced with a newer model; that the unit will not be detrimental to the neighborhood; and that the area is rural.

Mr. Lank advised the Board that the special use exception had been renewed over the years.

Mr. Morris testified that the Applicant plans to subdivide the Property if the Board approves the special use exception; that the unit will meet all required setback requirements; and that the Applicant has an approval from DeIDOT for an entrance.

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. Mills stated that he would move that the Board recommend approval of Special Use Exception Application No. 11475 for the requested special use exception based on the record made at the public hearing because the use does not substantially affect adversely the uses of adjacent and neighboring properties.

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

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

**Case No. 11476 – Donald E. Radcliffe & Karen A. Radcliffe** – northeast of Road 298 (Legion Road) and being southeast corner of Joanne Drive and Stacey Drive and being Lot 34 within John Burton Manor Subdivision. (911 Address: 101 Stacey Drive, Millsboro, DE) (Tax Map I.D. 2-34-29.00-863.00)

An application for a special use exception for a “recovery home”.

Mr. Lank presented the case and stated that the Office of Planning and Zoning received six (6) letters in opposition to the Application and had not received any correspondence in support of the Application.

Robert Buckley, Donald Radcliffe, and William Garnett were sworn in and testified requesting a special use exception for a “recovery home”. Mr. Radcliffe testified that the property address is not correct on the Application; and that the correct address is 220 Joanne Drive.

Mr. Sharp stated that due to the error he recommends the case be re-advertised and a new public hearing scheduled.

Motion by Mr. Mills, seconded by Mr. Rickard, and carried unanimously that the case be **re-advertised for the next available meeting and be first on the Agenda due to the addressing error**. 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. 11477 – Tim Pulice**- east of Road 432 (Governor Stockley Road) 1,900 feet north of Road 329 (E Piney Grove Road) (911 Address: None Available) (Tax Map I.D. 1-33-10.00-34.02)

An application for a special use exception to place a multi-sectional home type structure that is more than five (5) years old.

Mr. Lank presented the case and read one (1) letter of opposition to the Application into the record and stated that the Office of Planning and Zoning had not received any correspondence in support of the Application.

Tim Pulice and Adam Roncs were sworn in and testified requesting a special use exception to place a multi-sectional home type structure that is more than five (5) years old. Mr. Pulice and Mr. Roncs submitted pictures for the Board to review. Mr. Roncs testified that the Applicant seeks to place a mobile home on the Property; that the proposed manufactured home is a 2004 model and in good condition; that the home has vinyl siding and a standard roof pitch; that it is not apparent from the road that the unit is an older manufactured home; that the use will not substantially affect adversely the uses of neighboring and adjacent properties; that the area is residential; that the Property was previously used as by a radiator shop; that the Property is currently vacant; and that the proposed manufactured home will meet all required setback requirements.

Mr. Pulice testified that he plans to sell the Property once he has placed the manufactured home thereon.

Virginia Fletcher, Harry Fletcher, and James Baxter, IV, were sworn in and testified in opposition to the Application.

Mr. Sharp advised the Board that he has represented Mr. Baxter in the past and that, if the Board had any questions, those questions should be directed to Vince Robertson, Esquire.

Ms. Fletcher testified that she lives across the street; that the neighboring property is rented and detrimental to the public welfare; that the police have been contacted numerous times; that the Applicant does not keep the grass maintained on his Property; and that she believes the neighboring property will make it difficult for the Applicant to sell the Property.

Mr. Fletcher testified that he is tired of all the problems in the neighborhood; and that he does not want the Property occupied.

Mr. Baxter testified that he owns the adjacent property which surrounds the Property; that he is concerned for his right to farm and the future of the Property; and that he lives approximately ½ mile from the Property.

In rebuttal, Tim Pulice testified that he purchased the Property in 2008 for approximately \$150,000.00; that he hopes to place the manufactured home and sell the Property as a package deal; that he is aware of the problem with the neighbors; and that the adjacent property owner was supposed to keep the grass cut for him.

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

The Board found that three (3) parties appeared in opposition to the Application.

Motion by Mr. Hudson, seconded by Mr. Mills, and carried unanimously that the case be **tabled until November 3, 2014**. Motion carried 5 – 0.

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

### **OLD BUSINESS**

**Case No. 11465 – Peggy Brockway (Truitt)** – north of Road 269 (Clay Road) 0.2 mile east of Road 276 (Shady Road) (911 Address: 34053 Clay Road, Lewes, DE) (Tax Map I.D. 3-35-12.06-63.00)

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

Mr. Lank presented the case which had been left open since October 6, 2014 to allow the Applicant more time to prepare his case.

Tom White was sworn in and testified requesting a variance of 9.4 feet from the forty (40) feet front yard setback requirement for a proposed porch, a variance of 5.7 feet from the ten (10) feet side yard setback requirement for an existing dwelling, addition and steps, and a variance of 1.9 feet from the five (5) feet side yard setback requirement for an existing shed. Mr. White submitted exhibits to the Board to review. Mr. White testified that the proposed porch will provide a safer and more functional entrance to the existing dwelling; that there are similar porches in the area; that the variances are necessary to enable the Applicant to enter the house safely; that the dwelling was built in the 1940s; that other houses along Clay Road were built between the 1930s and 1950s; that the Applicant inherited the Property; that the use is not detrimental to the public welfare; that the variances will enable reasonable use of the Property; that the non-conforming dwelling makes the Property unique; that the variances will not alter the character of the neighborhood; and that variances requested are the minimum variances to afford relief.

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. 11465 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The Property is unique in that it is only 80 feet wide and has an angled property line;
2. The variances are necessary to enable reasonable use of the Property;
3. The exceptional practical difficulty was not 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. Hudson, 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.

**Meeting Adjourned 10:15 p.m.**