

MINUTES OF APRIL 14, 2014

The regular meeting of the Sussex County Board of Adjustment was held on Monday, April 14, 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, Ms. Melissa Thibodeau – Zoning Inspector II, and Mrs. Jennifer Norwood – Recording Secretary.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously to approve the Agenda 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. 11356 – Dale E. Wetzel & Jean L. Wetzel – south of Road 312 (River Road) across from Pocohontas Avenue and approximately 0.4 mile east of Road 311 (Chief Road) and being Lot 14 in Riverdale Park. (Tax Map I.D. 2-34-34.12-49.00)

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

Ms. Thibodeau presented the case. Jean Wetzel was sworn in and testified requesting a variance of two (2) feet from the ten (10) feet side yard setback requirement for a proposed addition. Ms. Wetzel testified that her existing house has two (2) very small bedrooms and a very small bathroom; that the proposed addition will be an expansion of two (2) existing bedrooms and a bathroom; that both Applicants have balance issues; that Dale Wetzel recently underwent back surgery and uses a cane; that she also underwent recent surgery; that the extra space will allow the Applicants to maneuver around their home more easily; that the variance is necessary enable reasonable use of the Property; that the Property is unique in shape and narrows toward the rear of the Property; that the shape of the Property creates the need for the variance; that the difficulty was not created by the Applicants and arose due to the Applicants' medical problems; that their neighbors have no objection to the Application; that the variance sought is the minimum variance to afford relief; that the front of the yard abuts against Indian River; that the addition is six (6) feet; and that the proposed addition will run the length of the existing dwelling which will enhance the appearance of the existing dwelling.

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. 11356 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 odd shape;
2. The variance is necessary to enable reasonable use of the Property;
3. The Applicants suffer health problems;
4. The difficulty was not created by the Applicants;
5. The variance will not alter the essential character of the neighborhood; and
6. The variance sought is the minimum variance necessary to afford relief.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variance 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. 11357 – Keith D. Riker – southeast of Hebron Road (Road 273) and southwest of Harmon Road, a subdivision street, and 75 feet southwest of Burton Avenue in West Rehoboth Subdivision and being Lot 1 in George H. Shockley Subdivision. (Tax Map I.D. 3-34-13.19-77.00)

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

Ms. Thibodeau presented the case. Keith Riker was sworn in and testified requesting a variance of 9.1 feet from the ten (10) feet rear yard setback requirement for an existing second-floor landing, a variance of 9.6 feet from the ten (10) feet side yard setback requirement for an existing second-floor deck, a variance of twenty-two (22) feet from the thirty (30) feet front yard setback requirement for an existing well and pump house, and a variance of 9.2 feet from the fifteen (15) feet corner side yard setback requirement for an existing second-floor deck. Mr. Riker submitted exhibits to the Board to review.

Mr. Riker testified that he retired as a federal officer in Philadelphia in June 2013; that he retained Delmarva Pole Building to construct a detached pole building which would have two floors; that, due to expenses, he removed the second floor, decks, and stairs from the plans; that he built the second floor, decks, and stairs; that Delmarva Pole Building installed the necessary joists and headers to accommodate the second floor decks; that Delmarva Pole Building led him to believe that the concrete pads that were poured were at the setback line and believe the decks could be built at the same distance; that the plans note that the second floor, decks, and stairs were to be built by customer; that there are other pole buildings in the area; that the second floor area was being built to allow his father to live in the house; that the second floor of the pole building was to be used for storage for his father's belongings; that his father was planning to care for plants that would be planted in a community garden; that his father has since passed away; that Delmarva Pole Building was responsible for the construction of the pole building, the placement of the concrete slabs and obtaining the necessary building permits; that his contract with Delmarva Pole Building states it is not responsible for encroachments but he did not realize it at the time; that he

did not realize that Delmarva Pole Building laid the concrete slabs into the adjoining street; that the existing house is a non-conforming structure that is only six (6) feet from the property line; that he feels misled by Delmarva Pole Building; that the Property is located in West Rehoboth; that the dwelling is historical; that a very old tree is located on the Property; that the second floor is not accessible without the exterior steps and decks; that there are no interior steps and no room to build steps within the pole building; that the pump house has existed since he purchased the Property; that the pump house was originally enclosed; that the pump house has been on the Property since at least the 1960s; that he only reinforced the existing covered area over the pump house; and that the State of Delaware is planning to create a bike path, which will take approximately eight (8) feet from his property.

Martin Joseph Miller, Jr. was sworn in and testified in opposition to the Application. Mr. Miller testified that his family owns the property behind the Applicant's property; that he currently lives in South Carolina but he was born and raised in the neighborhood; that an existing shed, fence and mailbox were removed from his aunt's property without her consent prior to the construction of the pole building on the Applicant's property; that the shed has since been rebuilt in the same location; that his aunt's mailbox has been relocated further from her property; that Applicant is responsible for making sure that his contractor complies with the setback requirements; that the Applicant's structures are inches from the property line; that the structures are so close to the Property line that they would prohibit fire equipment from gaining access in case of emergency; that he is concerned about fire spreading from the Applicant's property to his aunt's property; that his Aunt's property is run down but that does not give one the right to encroach so close to her property; that he does not understand how the Applicant could be so negligent in making sure the structures were being built in compliance with the zoning code; that the Applicant's property once belonged to his sister; that he is not aware of a well or pump house existing on that property at the location shown on the survey; that he believes the Applicant placed the pump house on the Property; that he used to pump water on the Property between the house and the pole building; that he does not recall anything being in the location of the current pump house; that his mother lives in the neighborhood and he visits regularly; that he spoke to the Applicant during construction of the building about his concern for the Applicant storing lumber on his aunt's property; that he believes a set of steps can be built between the building and the existing dwelling to gain access to the second floor storage area; and that there is sufficient room between the house and the pole building for stairs.

Ms. Thibodeau stated that the 2002 map does not show the pump house.

Mr. Miller testified that that there has been talk in the neighborhood of the Applicant planning to operate a bike shop/café from the Property; that he has no objection to the location of the pole building as long as the decks are removed; that there was never a covered gazebo type structure on the front of the dwelling; and that he opposes the pump house, the decks, and the stairs.

Ms. Thibodeau stated that the permit was only for a one (1) story pole building and that the decking increases the square footage of the pole building and causes it to exceed the 600 square feet maximum.

In rebuttal, Mr. Riker testified that the pump house on the Property is under the ground in a cinder block basement type room; that the pump house provides the only source of water to the Property; that he put beams around the pump house to make it look like a gazebo; that the Property is a corner lot; that Mr. Miller's aunt's mailbox was located in front of his house; that after the passing of Mr. Miller's aunt he asked her family member about relocating the mailbox; that he was not involved in the demolition of the neighbor's shed; that the Land Trust was involved in the demolition of the shed; that he cannot build the steps to the second floor of the pole building between the building and the dwelling; that he cannot build stairs within the interior of the building because it is not large enough; that he incorporated Bike Café, Inc., to protect his assets; that Bike Café, Inc., is only a corporation name he made up; and that he has no intention of running a business on the Property.

James Chaconas was sworn in and testified in support to the Application and testified that he can confirm there is a pump under the home in a cinder block room; that he has been in the pump house and it appears to be a well.

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

Ms. Thibodeau stated that the Office of Planning and Zoning had received one (1) letter in support and fourteen (14) letters of no objection to the Application.

The Board found that one (1) party appeared in opposition to the Application.

Ms. Thibodeau stated that the Office of Planning and Zoning had received one (1) letter 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. Motion by Mr. Mills, seconded by Mr. Rickard, and carried unanimously to **leave the record open for the limited purpose of allowing the Office of Planning & Zoning to research the existence of the pump house and to report back to the Board regarding its investigation and with pictures of the pump house.** 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. 11358 – Albert C. Burns, Jr. – northeast of Road 299 (Bay Farm Road) and being northeast of Timbercreek Lane 1,200 feet northeast of Shoreview Boulevard and being Lot 239 within Long Neck Shores. (Tax Map I.D. 2-34-29.00-1150. 00)

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

Ms. Thibodeau presented the case. Albert Burns, Jr. and Ronald Simmons, with Patio Systems, were sworn in and testified requesting a variance of five (5) feet from the six (6) feet rear yard setback requirement for a proposed sunroom and deck with stairs. Mr. Simmons submitted exhibits to the Board to review. Mr. Simmons testified that the Applicant wants to build a small sunroom and deck; that the lot is pie shaped and has a curved rear yard property line which makes the Property unique; that the rear yard setback is six (6) feet; that the existing dwelling is elevated and there are currently two (2) sets of steep steps on the rear of the dwelling; that the lot is sloped in the rear yard; that the slope of the rear yard makes it difficult to use; that the Property is adjacent to an existing storm water management pond; that there are no neighbors to the rear yard; that the existing dwelling was built close to the rear yard property line; that the proposed sunroom and deck will allow the Applicant to enjoy and use the backyard of his Property; that the variance will enable reasonable use of the Property; that the Property cannot be developed in strict conformity with the Sussex County Zoning Code; that the difficulty was not created by the Applicant; that the variance will not alter the character of the neighborhood; that the proposed sunroom will only be eleven (11) feet wide; that the variance is the minimum variance to afford relief; and that the size of the deck is necessary to have a usable space

Mr. Burns reviewed the pictures with the Board and testified that restrictive covenants limit construction to the sides of the dwelling and limit his ability to build into the side yard; that the steps of the proposed deck will come down in front of the sunroom; and that the ponds are controlled and drained during storms to prevent flooding.

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

Ms. Thibodeau read one (1) letter of opposition into the record.

Mr. Simmons testified that the homeowners association has not yet been turned over to the homeowners by the developer; and that the unique shape of the lot creates the difficulty.

Mr. Burns testified that he needed an eleven (11) feet wide deck to allow for usable space.

Mr. Hudson stated that he would move that the Board recommend approval of Variance Application No. 11358 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The Property is unique in shape;
2. The Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Ordinance;
3. The difficulty was not created by the Applicant;
4. The restrictive covenants of the development limit the Applicant's options;
5. The variance will not alter the essential character of the neighborhood; and
6. The variance sought is the minimum variance necessary to afford relief.

Motion by Mr. Hudson, seconded by Mr. Rickard, and carried that the variance be **granted for the reasons stated**. Motion carried 4 – 1.

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

Case No. 11359 – Robert Brownell and Bonnie Brownell – east of Route 1 and being west of Killewake Road 330 feet west of Sandpiper Road and being Lot T4 within Ocean Village Subdivision. (Tax Map I.D. 1-34-13.00-1307.00)

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

Ms. Thibodeau presented the case. Greg Hastings was sworn in and testified requesting a variance of 20.8 feet from the forty (40) feet front yard setback requirement for a through lot for a proposed dwelling; that he was retained by the Applicants to design a dwelling; that the Property is located in Ocean Village and backs up to Route 1; that the Property has two (2) front yard setback requirements which create a hardship; that the lot is unusual in shape; that the proposed dwelling is a standard style house that will measure forty (40) feet by fifty-six (56) feet; that the Homeowners Association has no objection to the Application; that there have been similar variances granted in the development; that the Applicant has owned the lot for approximately eighteen (18) years; that the existing dwelling will be demolished; that the Property currently has three (3) variances for an existing dwelling that encroaches into the setback areas more than the proposed dwelling will encroach; and that the Property is accessed from Killewake Drive.

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. 11359 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The Property is unique in 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 requested 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. 11361 – Bill Slivka and Maureen Slivka – south of Road 277 (Angola Road) and being east of Holly Way East 800 feet north of Woodland Circle and being Lot 44 Block K Section 2 of Angola-by-the-Bay development. (Tax Map I.D. 2-34-12.13-40.00)

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

Ms. Thibodeau presented the case. Bill Slivka and Maureen Slivka were sworn in and testified requesting a variance of 0.8 feet from the five (5) feet side yard setback requirement for an existing shed and a variance of five (5) feet from the five (5) feet rear yard setback requirement for an existing arbor. Mr. Slivka submitted exhibits for the Board to review. Mr. Slivka testified that the shed is a permanent structure; that the shed and arbor existed on the Property when they purchased the Property in 2005; that the Property is located in the Angola by the Bay development; that the homeowners association has no objection to the Application; that the shed and arbor have been in their current locations for many years; that the Applicants only reinforced the arbor to support the vines and plantings they added to the Property; that they added a screen porch and received appropriate permitting and approvals; that there is no good location to relocate the arbor without disrupting the Property and the view; that the arbor is the centerpiece of the Property; that the arbor is difficult to move due to its weight; that there are flower beds adjacent to the arbor; and that the rear of the Property is adjacent to common area for the development.

Ms. Slivka testified that that the structures cannot be seen from the road and do not alter the character of the neighborhood; and that the rear of the Property is adjacent to common area for the development.

Mr. Slivka testified that there is no new construction on the Property; that the arbor is the centerpiece of the rear yard and that there is no place to move it; that the shed is necessary to enable reasonable use of the Property for storage purposes; that the Applicants do not have a basement or a garage; and that the variances will not affect the character of the neighborhood.

Ms. Slivka testified that the variances will enhance the character of the neighborhood and that there is an empty lot next to the Property.

Mr. Slivka testified that the arbor complements the neighborhood; that they are planning to sell the Property; and that the variances are the minimum to afford relief.

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

Ms. Thibodeau stated that the Office of Planning and Zoning received one (1) letter in support of the Application.

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11361 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 forty-nine (49) feet wide;
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;
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. 11362 – Marie M. Evans – southeast of Road 341 (Falling Point Road) 625 feet northeast of Ballast Point Road (Road 341A). (Tax Map I.D. 1-34-6.00-167.05)

An application for a variance from the minimum lot width requirement for a parcel.

Ms. Thibodeau presented the case. Barbara Bonk and Tom Schreier were sworn in to testify about the Application. Matt Longo, Esquire, presented the case to the Board on behalf of the Applicant requesting a variance of 45.31 feet from the 150 feet lot width requirement for a parcel; that the Applicant wants to subdivide a 7.2 acre parcel into three (3) lots; that all proposed lots are compliant with the Sussex County Zoning Code except for the proposed Lot 3 which needs a variance of the lot width requirement; that the existing lot has road frontage on two (2) roads; that lots in the area are one (1) to five (5) acres in size; that the area is mainly agricultural and residential; that there will not be a negative impact to the neighborhood; that the neighbor conveyed five (5) feet to the Applicant for Lot 3; that the existing structures will meet the required

setback requirements; that the Property is U shaped making it unique; that it would be extremely difficult to have all three lots front on Ballast Point Road because it would result in Lot 3 being shaped like a flag and having a driveway of over 700 feet and it would necessitate the removal of the existing dwelling; that the variance will allow for a more reasonable sized lot; that the variance request will not impair the uses of neighboring properties; that the variance request will not be detrimental to the public welfare; that the Applicant and her family own the surrounding property; and that the variance will enable reasonable use of the Property. Mr. Schreier, under oath, confirmed the statements made by Mr. Longo.

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. 11362 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The Property is U shaped making it unique in shape;
2. The variance is necessary to enable reasonable use of the Property;
3. The difficulty was not created by the Applicant;
4. The variance will not alter the essential character of 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.

Case No. 11363 – Donald J. Erickson – northeast corner of the intersection of Road 270A (Munchy Branch Road) and Parsonage Road. (Tax Map I.D. 3-34-13.00-8.04)

An application for a special use exception for offsite parking.

Ms. Thibodeau presented the case. John Barwick with Karins Associates was sworn in and testified requesting a special use exception for offsite parking. Mr. Barwick testified that the Applicant seeks a special use exception for an overflow parking lot; that the Property was previously granted a special use exception for offsite parking for forty-four (44) spaces in 2010; that the number of spaces on the plan was reduced to thirty-five (35); that the Applicant obtained approvals from the Delaware Department of Transportation (“DelDOT”) and the State Fire Marshal’s Office; that, at the time of the previous application, the Applicant only owned the nearby furniture store; that the Applicant did not construct the parking lot at the time due to a decline in the business economy; that Fins Ale House has opened and there is a great need for additional parking; that patrons are parking on the grass along Parsonage Road; that the governmental

approvals expire this summer; that the Property is a unique shape and is difficult to develop; that the proposed parking lot will have thirty-four (34) parking spaces; that the existing shopping center and furniture store are on two (2) different parcels; that the Applicant plans to create an interconnection between the two (2) parcels; that the Applicant now owns both parcels; that the onsite parking lot provides seventy-eight (78) spaces; that a crosswalk will be created for pedestrian crossing from the offsite parking lot; that the employees for Fins Ale House will be using the offsite parking lot; that the parking lot will not have additional lighting; that the proposed pond on the Property is an infiltration pond; that there will be shrubbery planted on site; that the sidewalks will be improved; and that the crosswalk will be lit and additional lighting will be added to the rear of the shopping center.

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 Special Use Exception Application No. 11363 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. Rickard, seconded by Mr. Workman, and carried unanimously that the special use exception 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. 11364 – Hunters Walk Lewes, LLC – east of Kings Highway (Road 268) 350 feet south of Dartmouth Drive, 1,100 feet north of Route One (Coastal Highway). (Tax Map I.D. 3-34-6.00-66.09)

An application for a special use exception to place a manufactured home type structure for a temporary sales office.

Ms. Thibodeau presented the case. Benjamin Gordy with Ocean Atlantic was sworn in and testified requesting a special use exception to place a manufactured home type structure for a temporary sales office. Mr. Gordy submitted exhibits for the Board to review. Mr. Gordy testified that the Property is located off of Kings Highway and consists of 2.3 acres; that the Property is zoned commercial; that the unit will be used for a temporary sales office for a 144 unit apartment building complex that has been approved; that the unit will measure twelve (12) feet by sixty (60) feet and will comply with all setback requirements; that there will be five (5) parking spaces available; that a permanent sales office will be located in the proposed clubhouse; that the Applicant plans to use the unit for approximately six (6) months while the permanent sales office

is constructed; that the surrounding properties are commercial properties; and that the use will not substantially adversely affect the uses of the surrounding and adjacent neighboring properties.

The Board found that no parties appeared in support of or 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 hearings, the Chairman referred back to this case. Mr. Mills stated that he would move that the Board recommend approval of Special Use Exception Application No. 11364 for the requested special use exception for a period of one (1) year 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. Rickard, and carried unanimously that the special use exception be **granted for a period of one (1) year 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. 11365 – Susan Thompson – north of Road 361 (Muddy Neck Road and Kent Avenue) and the Assawoman Canal being Unit 41 of Bahamas Beach Cottages on New Providence Road. (Tax Map I.D. 1-34-17.00-44.00-Unit 41)

An application for variances from the separation requirement between units.

Ms. Thibodeau presented the case. Susan Thompson and Rick Shafer were sworn in and testified requesting a variance of 2.5 feet from the forty (40) feet separation requirement between units for a proposed set of steps and a variance of three (3) feet from the forty (40) feet separation requirement between units for an existing screen porch. Ms. Thompson testified that she acquired the Property in 2000; that the screen porch existed at that time; that the existing dwelling is too small for her growing family; that the additional space will be a family room; that the steps need to be relocated in order to gain access to the dwelling; that parking is under the dwelling; that the proposed steps are in line with the existing screen porch; and that she was unaware the porch did not comply.

Mr. Shafer testified that he is the president of the homeowners association and that the homeowners association has no objection to the Application.

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. 11365 for the requested variance 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 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. 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.

Meeting Adjourned 10:15 p.m.