

MINUTES OF APRIL 17, 2017

The regular meeting of the Sussex County Board of Adjustment was held on Monday, April 17, 2017, at 7:00 p.m. in the County Council Chambers, 2 The Circle, 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. Jeff Hudson, Mr. Norman Rickard, and Mr. Brent Workman. Also in attendance were Mr. James Sharp – Assistant County Attorney, and staff members Ms. Janelle Cornwell – Director of Planning and Zoning, Mrs. Jennifer Walls – Planning Manager, and Ms. Christin Headley – Recording Secretary.

The Pledge of Allegiance was led by Mr. Callaway.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Agenda. 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. 11943 – Hope Wilson Lavachia - seeks variances from the rear yard setback, the minimum road frontage, and the minimum lot size requirements (Sections 115-24A(1) and 115-185F of the Sussex County Zoning Code). The property is located on the northwest side of Country Club Road (Road 273) approximately 1,027 feet southwest of Windsor Road. 911 Address: 513 & 511 Country Club Road, Rehoboth Beach. Zoning District: AR-1. Tax Map No.: 3-34-19.00-8.00 & 8.01.

Mrs. Walls presented the case and stated that the Office of Planning and Zoning received no correspondence in support of the Application and one (1) letter in opposition to the Application and read the letter into the record.

Hope Wilson Lavachia was sworn in to testify about the Application. Shannon Carmean Burton, Esquire, presented the case on behalf of the Applicant and submitted exhibits for the Board to review.

The Applicant proposes to subdivide 2 existing parcels (Parcels 8.00 and 8.01) into 3 parcels. For purposes of clarity in these minutes, the proposed parcel on the south side will be identified as Parcel A, the proposed parcel in the middle will be identified as Parcel B, and the proposed parcel on the north side will be identified as Parcel C. The Applicant is requesting a variance of 2.7 feet from the five (5) feet rear yard setback requirement for an existing shed on proposed Parcel B, a variance of 60.98 feet from the one hundred and fifty (150) feet road frontage requirement on proposed Parcel A, a variance of 60.98 feet from the one hundred and fifty (150) feet road frontage requirement on proposed Parcel B, a variance of 60.98 feet from the one hundred and fifty (150) feet road frontage requirement on proposed Parcel C, a variance of 1,322 square feet from the 20,000 square feet minimum lot size requirement on proposed Parcel A, a variance of 1,140 square feet from the 20,000

square feet minimum lot size requirement on proposed Parcel B, and a variance of 1,325 square feet from the 20,000 square feet minimum lot size requirement on proposed Parcel C.

Mrs. Burton stated that the Applicant owns Parcels 8.00 and 8.01 and proposes to create three lots out of these two parcels; that Parcel 8.00 is improved by two existing dwellings; that one dwelling is a one-story dwelling and was constructed in approximately 1940; that the other dwelling is a two-story dwelling constructed in approximately 1935; that Parcel 8.00 was subdivided in 1995 to create Parcel 8.01; that Parcel 8.01 is an existing nonconforming lot with an entrance and a sewer connection; that Parcel 8.01 has road frontage of 60 feet; that the Applicant proposes to increase the lot width of Parcel 8.01 to 89.02 feet; that the Applicant proposes to create two lots out of Parcel 8.00 with one dwelling on each lot; that the newly created lots from Parcel 8.00 would be 89.02 feet wide as well; that the Applicant could build a home on Parcel 8.01 and proposes this lot line adjustment and subdivision to create three similarly sized lots; that the parcels are unique; that the parcels are the remaining lands of the Applicant's family farm; that Parcel 8.00 does not have the necessary 300 feet of road frontage to be subdivided; that Parcel 8.00 was developed prior to 1970; that Parcel 8.01 is unique because it is an existing nonconforming lot; that the proposed subdivision will be reducing the nonconformity of Parcel 8.01; that the exceptional practical difficulty is due to the uniqueness of the parcels; that the Property cannot be developed in strict conformity with the Sussex County Zoning Code; that there are two dwellings on one parcel and Parcel 8.01 is an existing nonconforming lot; that the proposal will reduce the nonconformities for both parcels; that the variances are necessary to enable reasonable use of the Property; that the exceptional practical difficulty has not been created by the Applicant; that the Applicant inherited the Property in its current state; that she did not develop the Property or construct the improvements thereon; that the Applicant intends to retain one of the parcels and to gift the other two parcels to her daughters; that the variances will not alter the essential character of the neighborhood nor impair the uses or development of neighboring properties; that the variances will not be detrimental to the public welfare; that there are three existing asphalt entrances thereby giving the appearance that there are three separate lots; that the Applicant received no complaints about the location of the shed and dwellings; that many lots along Country Club Road do not comply with lot width requirement; and that the variances requested represent the minimum variances necessary to afford relief.

Ms. Lavachia testified that the parcels are the last remaining parcels from her family's farm; that her daughters will be the fifth generation to live on the Property; that she grew up on the Property; that Silver View Farm Manufactured Home Park was developed out of the previous 42-acre farm; that Silver View was sold and Parcels 8.00 and 8.01 were the remaining lands of the farm; that Parcel 8.01 was deeded to her parents when the Park was sold; that neighboring lots along Country Club Road are 60 to 70 feet wide; that the shed is a cement block shed used for lawn equipment and is in good repair; that her parents recently passed away and no one has been living in the home on Parcel B since they passed away; that the home on Parcel C used to be located across the street and was moved at the time the Rehoboth Beach Country Club was created; that she has not decided whether to keep or destroy the home on Parcel C; that she spoke with some of her neighbors and they do not oppose the Application; and that the shed was built around 40 years ago.

Ms. Lavachia, under oath, affirmed the statements made by Mrs. Burton.

Kathleen Heintz was sworn in to testify in opposition to the Application. Ms. Heintz testified that she does not believe that the Applicant is seeking the minimum variances necessary to afford relief; that there is no need for the creation of 3 lots when the original 2 lots would not conform; and that she lives across the street from the Property.

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

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

Motion by Mr. Mills, seconded by Mr. Rickard, and carried unanimously that the case be **tabled until May 1, 2017**. 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. 11944 – Donovan – Smith MHP, LLC - seeks variances from the separation requirement between units (Section 115-172G(7) of the Sussex County Zoning Code). The property is located on the southeast side of Cooper Circle, approximately 309 feet southwest of Road 263. 911 Address: 34290 Cooper Circle, Lewes. Zoning District: AR-1. Tax Map No.: 3-35-8.14-43.00-55401.

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application.

Billy Betts was sworn in to testify about the Application. Seth Thompson, Esquire, presented the case on behalf of the Applicant and submitted exhibits for the Board to review.

Mr. Thompson stated that the Applicant is requesting a variance of 2.8 feet from the twenty (20) feet separation distance between units requirement from the dwelling on Lot G-8, a variance of 0.4 feet from the twenty (20) feet separation distance between units requirement from the dwelling on Lot G-8, a variance of 1.1 feet from the twenty (20) feet separation distance between units requirement from the dwelling on Lot G-10, and a variance of 1.0 feet from the twenty (20) feet separation distance between units requirement from the dwelling on Lot G-10.

Mr. Thompson stated that Mr. Betts is the park manager; that the Donovan-Smith Mobile Home Park is an older park; that there have been other variances granted in the Park in the past dating back to 1989; that the Park is unique due the narrowness of the lots within the Park; that the narrow lots are due to the fact that the Park is an older park; that the lots measure 35 feet by 75 feet; that the narrowness of the lots make it difficult for the Park to improve the character of the neighborhood by removing older homes and replacing them with newer homes while still complying with the Sussex County Zoning Code; that there is no possibility to develop in strict conformity with the Sussex County Zoning Code; that the Property is identified as Lot G-9; that the new manufactured home measures 12 feet by 40 feet and is a small home; that the manufactured home was placed squarely between the neighboring units yet still does not meet the separation distance requirements; that the manufactured home consists of 400 square feet; that the exceptional practical difficulty was not created by the Applicant; that the issue lies with the age and size of the lots and the increase in size of

available manufactured homes; that the Applicant obtained a manufactured home placement permit last year; that the home will not alter the essential character of the neighborhood or impair the uses or development of neighboring properties; that the variances will not be detrimental to the public welfare; that there have been numerous variances granted within the park; that the newer manufactured home will upgrade the appearance of the Park; that the Property is adjacent to a railroad in the rear and a parking lot in the front; that the variances requested are the minimum variances necessary to afford relief; that the variances requested represent the least modifications of the regulations at issue; and that the home was placed in the most compliant manner possible.

Mr. Betts, under oath, affirmed the statements made by Mr. Thompson. Mr. Betts testified that most of the newer manufactured homes are 14-16 feet wide; that the Applicant found a 12 feet wide model to place on the lot; that the manufactured home that was placed on the lot is a 2011 model; that the Applicant is unable to place a manufactured home measuring 60 feet long so a shorter home is needed; that an older manufactured home was selected because it is smaller in width suitable for a smaller lot; that a previous manufactured home on the Property was replaced with the newer model; that he does not believe that a brand new 12 feet wide manufactured home is not available; that a 14 feet wide manufactured home is the smallest model available now; that a "park model" home is more like a travel trailer and does not meet the requirements for a manufactured home; that, on April 8, 2016, a manufactured home placement permit was given to the Applicant; and that he has not received complaints about the home.

Mr. Thompson stated that the lots are angled so the home had to be placed at an angle.

James McCarty was sworn in to testify in opposition to the Application. Mr. McCarty testified that he lives in the Park; that he is a former fireman and is concerned about the effect of the home on the fire code; that, if a home catches fire, it can easily spread if the homes are not sufficiently separated; that the 20 feet separation distance requirement between units is recommended but is not safe; that even two feet closer in separation distance is a huge safety issue; that there are 12 feet wide manufactured homes available; and that he is concerned with the manufactured homes being so close to each other and catching fire.

Sam Saunders was sworn in to testify in opposition to the Application. Mr. Saunders testified that he is concerned with the closeness of the manufactured homes; that he is concerned about the safety of the park; that the new manufactured home that was placed is also close to the railroad tracks; that a bicycle path is going to be located near the tracks as well; and that he lives in the Park.

Terry Saunders was sworn in to testify in opposition to the Application. Dr. Saunders submitted exhibits for the Board to review and testified that she has lived in the Park for 8 years; that she was not aware of the placement of the new manufactured homes because there were no permits posted; that there are three separate lots where permits were issued but not posted; that the manufactured homes were placed prior to the filing of this Application; that she believes the Applicant should have applied for the variances prior to placing the home on the Property; that, if the variances are granted, it will decrease the property value of the neighboring properties and increase the hazards surrounding the manufactured homes; and that there are abandoned units in the neighborhood.

Sharon Ashe was sworn in to testify in opposition to the Application. Ms. Ashe submitted exhibits for the Board to review and testified that she agrees with the other opposition testimony; that she is a member of the recently created homeowners' association; that the manufactured homes being placed are oversized structures on undersized lots; that the new manufactured homes loom over the older, smaller homes; and that there are plenty of vacant manufactured homes within the Park.

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

The Board found that seven (7) parties appeared in opposition to the Application.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the case be **tabled until May 1, 2017**. 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. 11945 – Donovan – Smith MHP, LLC - seeks variances from the separation between units requirement (Section 115-172G(7) and 115-172G(14) of the Sussex County Zoning Code). The property is located on the northwest side of Grandview Street, approximately 770 feet northwest of Central Avenue. 911 Address: 16307 Grandview Street, Lewes. Zoning District: AR-1. Tax Map No.: 3-35-8.14-43.00-55406.

Mrs. Walls presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application.

Billy Betts was sworn in to testify about the Application. Seth Thompson, Esquire, presented the case on behalf of the Applicant and submitted exhibits for the Board to review.

Mr. Thompson stated that the Applicant is requesting a variance of 1.4 feet from the twenty (20) feet separation distance between units requirement from the landing on Lot A-20, a variance of 0.4 feet from the twenty (20) feet separation distance between units requirement from the dwelling on Lot A-20, a variance of 6.4 feet from the twenty (20) feet separation distance between units requirement from the dwelling on Lot A-20, a variance of 7.4 feet from the twenty (20) feet separation distance between units requirement from the shed on Lot A-18, a variance of 7.5 feet from the twenty (20) feet separation distance between units requirement from the deck on Lot A-18, a variance of 11.5 feet from the twenty (20) feet separation distance between units requirement from the deck on Lot A-18, and a variance of 1.5 feet from the twenty (20) feet separation distance between units requirement from the porch on Lot A-18.

Mr. Thompson stated that the Donovan-Smith Manufactured Home Park is a smaller and older mobile home park; that the Application pertains to Lot A-19; that the lot is one of many narrow lots in the Park; that the owner of the home on the adjacent lot (Lot A-18) obtained a variance in 2001; that the owner of the home on Lot A-18 added a shed, deck, and covered porch to the existing manufactured home prior to the placement of the manufactured home on Lot A-19; that the narrowness of the lot has created an exceptional practical difficulty for the Applicant; that the

additions on the neighboring lot have also made it difficult for the Applicant to replace the older mobile home on Lot A-19 with a newer structure; that the new mobile home measures 13.9 feet wide by 60 feet long; that the Applicant seeks to improve the Park by removing older homes and replacing them with newer homes; that the newer manufactured home is a smaller model home; that a newer home cannot be placed on the lot in strict conformity with the Sussex County Zoning Code due to the narrowness of the lot and the additions to the home on Lot A-18; that the exceptional practical difficulty was not created by the Applicant; that the accessory structures on Lot A-18 have decreased the available separation distance; that the Applicant obtained a manufactured home placement permit last year; that the home will not alter the essential character of the neighborhood or impair the uses or development of neighboring properties; that the variances will not be detrimental to the public welfare; that there have been numerous variances granted within the Park; that the direct neighbors to Lot A-19 do not have any complaints; that the manufactured home was placed a year ago and is still unoccupied; that the owner of the manufactured home park wants to update the Park with newer manufactured homes; that newer mobile homes are larger than older ones; that, if no variances from the separation distance requirement are granted, it would encourage a park owner to retain older manufactured homes in the Park which would be a detriment to the community; that the variances represent the minimum variances necessary to afford relief; and that the home was placed in the most compliant manner possible.

Mr. Betts, under oath, affirmed the statements made by Mr. Thompson. Mr. Betts testified that the Applicant tried to center the home in the center of Lot A-19; that he was not aware that the deck and shed on the neighboring lot would affect the separation distance; that the measurements were made from manufactured home to manufactured home but measurements were not made from the neighboring shed, deck, and covered porch; that the shed on Lot A-18 is a plastic shed located on top of the deck; that the new manufactured home replaced an older manufactured home on Lot A-19; and that the older manufactured home that was replaced was similar in size and location to the new manufactured home.

James McCarty was sworn in to testify in opposition to the Application. Mr. McCarty testified that he is concerned about the closeness of the manufactured home to existing structures; and that his main concern is the hazard and safety issues.

Ms. Cornwell advised the Board that the proposed manufactured home meets the front yard setback requirement.

Terry Saunders was sworn in to testify in opposition to the Application. Dr. Saunders submitted exhibits for the Board to review and testified that a neighbor was granted a variance in 2001; and that Donna Yerger, who lives on Lot A-18, was granted a variance in 2001 and wrote a letter in opposition to the Application which was read into the record. Dr. Saunders testified that the previous mobile home on Lot A-19 was an older, smaller mobile home that was referred to as the "Crack Trailer" due to drug use by its occupants.

Sam Saunders was sworn in to testify in opposition to the Application. Mr. Saunders testified that he agrees with the testimony of his neighbors who oppose the Application; and that he wishes the Park would utilize the larger vacant lots rather than squeeze manufactured homes together.

Sharon Ashe was sworn in to testify in opposition to the Application. Ms. Ashe testified that many of the homeowners within the Park are fishermen, boaters, and gardeners; that the homeowners are looking to make the Park more aesthetically pleasing; and that she also has safety concerns with the closeness of the manufactured homes.

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

The Board found that six (6) parties appeared in opposition to the Application.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the case be **tabled until May 1, 2017**. 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. 11946 – Donovan – Smith MHP, LLC - seeks variances from the separation requirement between units (Section 115-172G(7) and 115-172G(13) of the Sussex County Zoning Code). The property is located on the north side of Seneca Street, approximately 624 feet northwest of Central Avenue. 911 Address: 16335 Seneca Street, Lewes. Zoning District: AR-1. Tax Map No.: 3-35-8.14-43.00-55408.

Mrs. Walls presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application.

Billy Betts was sworn in to testify about the Application. Seth Thompson, Esquire, presented the case on behalf of the Applicants and submitted exhibits for the Board to review.

Mr. Thompson stated that the Applicant is requesting a variance of 1.3 feet from the twenty (20) feet separation distance between units requirement from a deck on Lot C-15 and a variance of 6.2 feet from the twenty (20) feet separation distance between units requirement from a shed to the lot to the rear of the Lot C-16.

Mr. Thompson stated that the Application refers to Lot C-16 in the Donovan-Smith Manufactured Home Park; that the Park is an older park with small, narrow lots; that the manufactured home that was placed is 13.9 feet wide; that the manufactured home on the adjacent Lot C-17 is also 13.9 feet wide and the manufactured home on the lot to the rear is 19.4 feet wide; that the manufactured home is comparable in size to nearby homes; that the Property is unique because it is narrow and shallow; that the building envelope is also smaller due to the accessory structures on neighboring lots; that the narrow lots create an issue with placing newer manufactured homes within the Park; that the Property cannot be developed in strict conformity with the Sussex County Zoning Code even with the smaller home; that the variances are necessary to enable reasonable use of the Property; that the exceptional practical difficulty was not created by the Applicant; that the size of the lots predates the Applicant's ownership of the Park; that available manufactured homes are not as small as they once were; that a placement permit for the manufactured home was issued on April 8,

2016; that the home will not alter the essential character of the neighborhood or impair the uses or development of neighboring properties; that the variances will not be detrimental to the public welfare; that there have been numerous variances granted within the Park; that the Park owner's goal is to replace the older manufactured homes with newer manufactured homes in hopes of upgrading the community; that there is a fence located between the rear neighboring lot and Lot C-16 which is referred to in this Application; that the variances requested are the minimum variances necessary to afford relief; that the variances requested represent the least modifications of the regulations at issue; and that the home was placed in the most compliant manner possible.

Mr. Betts, under oath, affirmed the statements made by Mr. Thompson. Mr. Betts testified that he chose the largest available lots to place new manufactured homes; that he chose the home to fit each individual lot; that he found the smallest home available to fit the available lot; that the manufactured home that has been placed consists of two bedrooms; that most homeowners want a three bedroom home; that the manufactured home that was replaced was torn down prior to Mr. Betts becoming Park Manager but was comparable in size to the newly placed manufactured home; that he was not aware that the twenty (20) feet separation distance requirement also applied to accessory structures; that the manufactured home meets the rear yard setback and would meet the separation distance requirements if not for the accessory structures on neighboring lots; that he has received no complaints from direct neighbors to Lot C-16; that the goal is to clean up the Park; that the home is currently vacant; and that the neighboring lots are occupied.

Sharon Ashe was sworn in to testify in opposition to the Application. Ms. Ashe testified that she lives in the rear neighboring lot; that the new manufactured home that was placed is very close to her shed; that her elbow hit the HVAC system on the home on Lot C-16 when she went to start up her lawn mower; that she bought her home in October 2013; that the previous manufactured home was removed by the family that owned it; that there is no room for storage and accessory structures with the new manufactured homes being placed; that the new manufactured homes have large HVAC systems whereas the older ones do not; and that the previous manufactured home measured 12 feet by 50 feet.

Terry Saunders was sworn in to testify in opposition to the Application. Dr. Saunders submitted exhibits for the Board to review and testified that her shed caught on fire and melted the neighbors siding while the shed was more than twenty (20) feet away from the neighbor; that she is concerned with how to safely improve the Park; that her home is 12 feet wide and is an older home that has been renovated; and that there are manufactured homes located in the park that are vacant and have been for sale for two to three years.

James McCarty was sworn in to testify in opposition to the Application. Mr. McCarty testified that he is concerned about the safety issues and possible fire hazards from the closeness of the manufactured homes; and that other tenants are concerned about retaliation from the Applicant if they were to oppose the Application.

Sam Saunders was sworn in to testify in opposition to the Application. Mr. Saunders testified that he is concerned with the safety; that he agrees the older manufactured homes need to be removed; and that there are other places where the newer manufactured homes could be placed.

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

The Board found that five (5) parties appeared in opposition to the Application.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the case be **tabled until May 1, 2017**. 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. 11947 – Proximity Malt, LLC - seeks a special use exception to use a manufactured home type structure for an office (Sections 115-105A and 115-210A(1) of the Sussex County Zoning Code). The property is located on the southwest corner of Bi-State Boulevard (Route 13) and St. George Road (Road 501). 911 Address: 33222 Bi-State Boulevard, Laurel. Zoning District: LI-2. Tax Map No.: 3-32-3.00-56.00.

Mrs. Walls presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application.

Scott Rogers was sworn in and testified on behalf of the Applicant and testified that the Applicant is requesting a special use exception to use a manufactured home type structure as an office; that he is an architect at Solutions IPEM; that the Property was previously used by the Laurel Grain Company; that the Applicant is renovating the Property to process local grains for the craft brewing industry; that there are multiple process-related structures on site; that the proposed manufactured home type structure will be used for clerical and office work; that the structure will not be used for industrial purposes; that the proposed manufactured home is similar to a portable classroom or a trailer used for light commercial or residential use; that the use will not substantially adversely affect the uses of neighboring and adjacent properties; that the structure will be located away from the road and will likely be one of the more non-descript buildings on site; that the Applicant would like to get the operation up and running before constructing a permanent office structure; that he anticipates the structure will be needed for 2 years; that the Applicant's company processes grain into malt and sells it to local breweries; that the proposed manufactured home will be skirted; that the neighboring properties are for agricultural use; and that there have been no complaints from neighbors.

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

Mr. Mills moved to approve Special Use Exception Application No. 11947 for the requested special use exception for a period of two (2) years based on the record made at the public hearing and because the use will not substantially adversely affect the uses of the neighboring properties.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the special use exception be **granted for a period of two (2) years and 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. 11948 – Carl J. Pierce & Pamela K. Pierce seek a variance from the front yard setback requirement on a through lot (Section 115-34B, 115-182A, and 115-185F of the Sussex County Zoning Code). The property is located on the west side of Ridge Court approximately 331 feet north of Oak Crest Drive. 911 Address: 30817 Ridge Court, Lewes. Zoning District: MR-RPC. Tax Map No.: 2-34-6.00-553.00.

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application.

Carl J. Pierce was sworn in, submitted exhibits for the Board to review, and testified requesting a variance of 27.3 feet from the forty (40) feet front yard setback requirement on a through lot for an existing shed. Mr. Pierce submitted a drawing of the community.

Mr. Pierce testified that the variance is for his shed; that the homeowners association requires all sheds be located behind the house; that the shed was placed on high ground for flooding reasons; that the Property is a through lot and abuts Beaver Dam Road; that there are 10 or 11 other properties in the community which also abut Beaver Dam Road; that variances have been granted to other homes along Beaver Dam Road; that he had no realization that the Property was considered a “through lot”; that neighbors have not complained about the shed; that the shed is attractive; that there is no other place to place the shed and moving it would be difficult; that the rear yard floods and the shed was placed on the highest available ground; that the shed is hidden by shrubbery and trees; that there are three other sheds in the community which are similarly situated; that the traffic along Beaver Dam Road has increased; that he did not obtain a permit for the shed; that the permit was obtained by the company who the shed was purchased from; that he went through the homeowners association approval process prior to placement of the shed; that the shed is needed for storage of outdoor equipment; that he relied on the contractor to place the shed in compliance with the Sussex County Zoning Code; that the shed was placed in 2005; that the Property fronts on an interior street with Beaver Dam Road being buffered by a wooded area; and that he has no access to Beaver Dam Road.

Eugene Greco was sworn to testify in support of the Application. Mr. Greco testified that he was the Applicant’s neighbor of 7 years; that he has no issue with the location of the shed; that he has spoken with other neighbors and they have no issues with the placement of the shed; that the placement of the shed is due to the homeowners association requirements; and that there is no other location to place the shed.

Mr. Mills informed the Applicant that he may need a variance for the deck in the rear of the home as well.

Mr. Pierce testified that the deck is 12 feet wide; that a deck was on the house when he moved into the house; that he had the deck repaired; and that it would be difficult to remove the deck.

Ms. Cornwell advised the Board that a variance of 8.0 feet is needed from the front yard

setback requirement for a through lot for a deck.

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 moved to approve Variance Application No. 11948 for the requested variances for the shed and deck based on the record made at the public hearing and for the following reasons:

1. The Property is unique due to its size and the lack of available storage;
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 will not be 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 variances for the shed and deck 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. 11949 – Mark J. Clark & Sandra J. Clark seek a variance from the front yard setback requirement on a through lot (Section 115-34B and 115-182A of the Sussex County Zoning Code). The property is located on the southwest side of Mulberry Lane approximately 367 feet northwest of Cedar Drive (Route 30). 911 Address: 34032 Mulberry Lane, Lewes. Zoning District: MR-RPC. Tax Map No.: 3-34-6.00-556.00.

Mrs. Walls presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application.

Sandra Clark was sworn in and testified requesting a variance of 14.7 feet from the forty (40) feet front yard setback requirement on a through lot for a proposed swimming pool. Mrs. Clark testified that the Property is unique because it is a through lot with two front yards; that the pool cannot be placed in the yard without a variance; that the proposed location of the pool is the best location for the pool; that the proposed placement is the farthest available away from neighboring structures; that the variance will not alter the essential character of the neighborhood; that there are 5 other pools in the neighborhood; that the neighbors adjacent to the Property and the Sandy Brae Homeowners Association support the Application; that a privacy fence measuring 6 feet tall will be placed around the pool; that the neighboring lots are already developed; that the propane tank will be moved from its current location; that she proposes to replace the existing fence with a new six feet vinyl fence; that the fence is located along the property line; and that she previously obtained a variance for the existing fence.

The Board and staff discussed whether a variance will be needed for the new fence proposed

by the Applicant.

Mr. Sharp advised the Board that variances from the height requirement and the front yard setback requirement will be needed for the fence.

Mrs. Clark testified that the existing fence is a wooded fence but the proposed fence will be a vinyl fence.

The Board members advised Mrs. Clark that a new application should be submitted for the approval of a variance needed for the height of the proposed fence.

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

Mr. Mills moved to approve Variance Application No. 11949 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 fact it is a through lot;
2. The variance is necessary to enable reasonable use of the Property;
3. The exceptional practical 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. 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. 11950 – Ernest De Angelis, Jr., seeks a special use exception to place a billboard (Section 115-83.6C and 115-155.5B of the Sussex County Zoning Code). The property is located on the south side of Lewes-Georgetown Highway and Route 404 (Route 9 / 404) approximately 770 feet southwest of Road 262. 911 Address: None Available. Zoning District: CR-1. Tax Map No.: 2-35-30.00-53.00.

Mrs. Walls presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application.

Ernest DeAngelis was sworn in and testified requesting a special use exception to place a billboard measuring 10 feet by 30 feet. Mr. DeAngelis testified that the Property consists of approximately 10 acres; that the billboard will not substantially affect adversely the uses of neighboring and adjacent properties; that the Property is located in the Cool Springs area and the surrounding parcels are zoned commercial; that utility lines buffer one side of the Property and a railroad is located to the rear of the Property; that the billboard meets all setback requirements; that the proposed location of the billboard is at least 600 feet from the nearest existing billboard and 1,200 feet from the nearest existing electronic message center; that the billboard will be more than 150 feet from any church, school, or public lands; that the Department of Transportation (“DelDOT”)

submitted a letter of no objection; that the closest existing billboard is a half a mile from the proposed location heading east on Route 9; that the proposed billboard will be located on the south side of Route 9; that all setback, height, and square footage requirements are met; that the proposed billboard will be a static billboard but the Applicant may request an electronic message center in the future; and that the billboard will be 25 feet tall.

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

Mr. Mills moved to approve Special Use Exception Application No. 11950 for the requested special use exception based on the record made at the public hearing and because the use will not substantially adversely affect the uses of the neighboring properties.

Motion by Mr. Mills, seconded by Mr. Rickard, and carried unanimously that the special use exception 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. 11951 – Sharon A. Bruner - seeks a variance from the separation requirement between units (Section 115-172G(7) of the Sussex County Zoning Code). The property is located on the north side of Lucky Lane, approximately 719 feet southeast of Indian Landing. 911 Address: 26601 Lucky Lane, Millsboro. Zoning District: AR-1. Tax Map No.: 2-34-25.00-31.00-19249.

Mrs. Walls presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application.

Sharon Bruner was sworn in and testified requesting a variance of 1.6 feet from the twenty (20) feet separation distance requirement for a proposed dwelling on Lot 14 from a deck on Lot 13. Ms. Bruner testified that the proposed manufactured home will be located in Massey's Landing; that her lot is square compared to other lots that are angled; that the Park is an older manufactured home park and the lots are narrow; that the proposed manufactured home is smaller than the older manufactured home being replaced; that the previous home had no insulation; that the previous existing home was 30 years old; that it was not feasible to live in the prior home in the winter; that the proposed manufactured home will be placed 23 feet from the neighboring unit but the neighbor's stairway encroaches into the separation distance requirement; that the proposed manufactured home will be an improvement to the neighborhood; that there have been no complaints from her neighbors; that the proposed location will be farther from the neighboring unit than the previous location; and that home meets the flood requirements.

Kathrine Contrulos was sworn in to testify in support of the Application. Ms. Contrulos testified that she is grateful to be heard by the Board because the process of receiving a granted variance has been a lengthy process; that she resides with Ms. Bruner; that a new home is needed; and that there has been help from neighbors.

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 moved to approve Variance Application No. 11951 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 size and the development of neighboring properties;
2. The variance is necessary to enable reasonable use of the Property;
3. The exceptional practical difficulty was not created by the Applicant because of the layout of the Manufactured Home Park;
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. 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.

Meeting Adjourned 10:07 p.m.