

MINUTES OF APRIL 7, 2014

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

The meeting was called to order at 7:00 p.m. with Chairman Callaway presiding. The Board members present were: Mr. Dale Callaway, Mr. John Mills, Mr. Brent Workman, Mr. Jeff Hudson, and Mr. Norman Rickard, with James Sharp – Assistant County Attorney, and staff members Mr. Lawrence Lank – Director of Planning and Zoning, and Mrs. Jennifer Norwood – Recording Secretary.

Motion by Mr. Rickard, seconded by Mr. Mills, and carried unanimously to approve the Revised Agenda and to move Case No. 11368 – Cellco Partnership d/b/a Verizon Wireless to the end of the public hearings. 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. 11366 – William C. Boyles – east of Road 351 (Clubhouse Road) southeast of Naomi Drive 200 feet southwest of Jackie Drive and being Lot 20 Block G Section 4 in White's Creek Manor Subdivision. (Tax Map I.D. 1-34-12.00-1473.00)

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

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

William Boyles was sworn in to testify about the Application. Manaen Robinson, Esquire, presented the case to the Board on behalf of the Applicant and stated that the Applicant is requesting a variance of 1.8 feet from the ten (10) feet side yard setback requirement for an existing dwelling and outside shower; that the Applicant purchased the Property on December 12, 2013; that the survey completed for settlement showed the encroachment into the side yard setback area; that the Applicant seeks the variance to allow the dwelling and shower to remain in their current locations; that the outside shower and a portion of the dwelling would have to be removed in order to comply with the setback requirements; that the variance is necessary to enable reasonable use of the Property; that the difficulty was not created by the Applicant; that the setback violations were in place when the Applicant purchased the Property; that the dwelling and shower were constructed in 1982; that the variance does not alter the character of the neighborhood; that the use does not impair the uses of neighboring properties; and that variance requested is the minimum variance to afford relief.

Mr. Boyles, under oath, confirmed the statements made by Mr. Robinson.

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. 11366 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 Applicant;
4. The variance will not alter the essential character of the neighborhood;
5. The variance is not detrimental to the public welfare; 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. Workman – yea, Mr. Rickard – yea, Mr. Hudson – yea, Mr. Mills – yea, and Mr. Callaway – yea.

Case No. 11367 – Kevin Lynn Kramer, Sr. & Diane Marie Kramer – east of Road 342 (Sandy Landing Road) and being north of Dover Road 100 feet west of Sussex Road and being more specifically Lot 10 Section A of Indian River Acres Subdivision. (Tax Map I.D. 1-34-7.00-8.00)

An application for variances from the side yard and front 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.

Kevin Kramer was sworn in to testify about the Application. Manaen Robinson, Esquire, was present on behalf of the Applicants and stated that the Applicants are requesting a variance of 0.2 feet from the ten (10) feet side yard setback requirement for an existing dwelling and a variance of 4.7 feet from the thirty (30) feet front yard setback requirement for an existing shed; that the Applicants purchased the Property on January 10, 2014; that a survey completed for settlement showed the encroachments into the setback areas; that the dwelling was constructed in 1963; that a Certificate of Compliance had been issued for the existing porch; that the Applicants are not sure when the shed was placed on the Property; that the structures existed when the Applicants purchased the Property; that numerous lots in the subdivision have sheds in the front yard; that there is no other location on the Property for the shed due to the narrowness of the Property; that the variances are necessary enable reasonable use of the Property; that the difficulty was not created by the Applicants; that the structures do not alter the character of the neighborhood; that the structures have been in their present locations for many years; and that the variances are the minimum variances to afford relief.

Kevin Kramer, under oath, confirmed the statements made by Mr. Robinson.

Mr. Robinson stated that the lot is narrow and crosses over Dover Road.

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. 11367 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The Property is unique as it is only fifty (50) feet wide;
2. The variances are necessary to enable reasonable use of the Property;
3. The difficulty has not been created by the Applicants as the violations existed prior to the Applicants' purchase of the Property;
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 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. 11369 – Jill Salter-Plump – southwest corner of Harrison Avenue and Bayshore Drive and being Lot 8 Broadkill Beach 0.4 mile southeast of Route 16 (Broadkill Road). (Tax Map I.D. 2-35-4.17-84.00)

An application for variances from the front yard and 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.

Gerald Caraway was sworn in and testified requesting a variance of 2.10 feet from the thirty (30) feet front yard setback requirement for a porch, a variance of 0.9 feet from the ten (10) feet side yard setback requirement for a dwelling, a variance of 4.6 feet from the fifteen (15) feet side yard setback requirement for a dwelling and deck, and a variance of 8.6 feet from the fifteen (15) feet side yard setback requirement for steps. Mr. Caraway testified that he plans to extend the existing front deck and screen it in; that he proposes to add steps to the front deck for better access; that he plans to extend the existing rear deck; that the existing decks are too small and need steps; that the decks will enhance the Property; that the lot is narrow in size; and that the lot is adjacent to marshland.

Janet Holstein was sworn in and testified on behalf of the Application. Ms. Holstein testified that the Property is narrow and borders marshland and a right-of-way; that the proposed size of the decks and proposed steps are needed for safety purposes; that the Applicant has not created the difficulty; that the screened in porch will allow the Applicant to enjoy the Property without worrying about insects; that the variances are necessary to enable reasonable use of the Property; that the existing decks have no steps and that poses a safety concern; that the location of the existing dwelling prevents the decks and stairs from being built in strict conformity; that the proposed decks and steps will enhance the neighborhood and will not impair the uses of adjacent neighboring properties; that no adjacent property will be affected by the proposed structures; that the variances will not be detrimental to the public welfare; that the variances are the least modifications of the regulations at issue; and that the variances will allow the Applicant to enhance and slightly enlarge the existing decks while improving safety features.

Mr. Caraway testified that the proposed steps will give the Applicant two (2) ways to enter and exit the Property; that the front deck will be two (2) feet closer to the road than the existing deck; that the rear deck will be approximately twice the size of the original deck since it will be the same size as the width of the dwelling; and that, currently, there is only one (1) access to the Property.

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. 11369 for the requested variance, based on the record made at the public hearing and for the following reasons:

1. The Property is unique because it is small and is only fifty (50) feet wide;
2. The Property is unique because it only has one access to the dwelling which is a safety concern;
3. The difficulty was not created by the Applicant;
4. The variances will not alter the essential character of the neighborhood;
5. The variances sought are the minimum variances necessary to afford relief; and
6. The variances represent the least modifications possible of the regulations at issue.

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

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

Case No. 11370 – Richard Cook – 250 feet northwest of Road 500 (Watson Road) 2,200 feet northeast of Road 498 (Ellis Grove Road). (Tax Map I.D. 4-32-6.00-35.00)

An application for a special use exception to place a manufactured home type structure in an AR-1 zoning.

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

Richard Cook was sworn in and testified requesting a special use exception to place a manufactured home type structure in an AR-1 zoning; that he plans to place a single wide manufactured home on the Property; that the Property is less than five (5) acres in size; that a family member will live in the manufactured home; that the Property is adjacent to his parents' house and this will allow a family member to live nearby to help care for his parents; that his father has suffered strokes recently; that he owned the Property back in 1993 and had a single wide manufactured home on the Property at that time; that the Property was deeded back to his mother and given to his brother; that he has recently purchased the lot from his brother; that there is an existing septic system and well on the Property; that he has not yet purchased a manufactured home for the Property; that, depending on what is available and affordable, will determine whether they place a single wide or double wide manufactured home on the Property; that the manufactured home would likely be used but under five (5) years old; that the Property is landlocked; that the Property is accessed by an existing easement and cannot be seen from the road; and that his parents are the only persons who can see the Property.

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 record for the application for a special use exception be **left open for the Applicant to provide pictures of the manufactured home to be placed on the Property**. 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. 11371 – Carlton Spicer, III – southeast of Route 9 (County Seat Highway) 3,000 feet northeast of Route 13 (Sussex Highway). (Tax Map I.D. 2-32-12.00-97.00)

An application for a special use exception to place a manufactured home type structure for medical hardship.

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.

Betty Spicer was sworn in and testified requesting a special use exception to place a manufactured home type structure for a medical hardship; that she plans to place a manufactured home on her son's property; that she has illnesses that affects her balance and over time will

worsen; that she suffers from diabetes, an autoimmune disease, and Parkinson's disease; that her medical condition affects her joints and limit her movement; that she plans to sell her larger home and downsize to a single wide manufactured home; that she can no longer care for a large home and needs a caregiver nearby; that her husband works full time which leaves her home alone; that her son would be able to help care for her while her husband is away; that the manufactured home would be located behind her son's home; that she has not yet purchased a manufactured home; that she plans to purchase a manufactured home that is not more than five (5) years old; that the use will not substantially adversely affect the surrounding and adjacent neighboring properties; that there are other manufactured homes in the area; and that she understands that the Application can only be approved for a two (2) year period and that she will have to renew the special use exception for every year after as needed.

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 Special Use Exception Application No. 11371 for the requested special use exception for a period of two (2) years based on the record made at the public hearing because the use does not substantially affect adversely the uses of the 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 two (2) years the reasons stated**. Motion carried 5 – 0.

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

Case No. 11372 – CMH Homes d/b/a Oakwood Homes – northeast of DuPont Boulevard (Route 113) southwest of Mitchell Road (Road 83) and northwest of Dagsboro Road (Road 334). (Tax Map I.D. 2-33-5.00-98.00)

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

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.

Gil Fleming was sworn in and testified requesting a variance of twenty-four (24) feet from the forty (40) feet front yard setback requirement in both front yards for a through lot on Route 113 and Route 83. Mr. Fleming submitted exhibits to the Board to review. Mr. Fleming testified that he is the general manager of the facility; that the lot is very unique because it is triangular shaped through lot that has two (2) front yard setbacks; that the setbacks and size of the lot really restrict the amount of inventory he can put on the Property; that the variances will allow him to display a competitive number of manufactured homes; that he believes the displays have

encroached into the setback areas for years; that he recently displayed a promotional unit close to the property line and believes the complaint was in reference to that unit; that they could house at most nine (9) units on the Property in compliance with the setback requirements; that the Applicant has noticed an increase in interest in singlewide manufactured homes and would like to house seven (7) singlewide manufactured homes and nine (9) doublewide manufactured homes on the Property; that the Applicant does \$4-5 million of business from the Property each year; that the units are constantly moved on and off the Property; that the oldest model has been on the lot for 450 days; that the Applicant does not leave houses on the Property for long periods of time; that the use of the Property is similar to a car sales lot where inventory is sold and replenished; that the uniqueness of the Property does not allow the Applicant to conform to the setback requirements; that it is important for the business to display a variety of units; that the Applicant leases the Property; that an existing billboard on the Property also creates a hardship for placement of the displays because the billboard is a low billboard and the landlord does not want display units near the billboard; that the Applicant would place a maximum of sixteen (16) units on the Property; that, due to the size of the display units, the variances will enable reasonable use of the Property; that the location of the existing sales office, parking and handicap ramp create a difficulty when placing and maneuvering the units because they limit the ability of trucks to move around the Property to move display units; that, if approved for the proposed variances, the displays could adhere to the setbacks; that the business has been on the lot since the 1980's without incident; that he is willing to accept a variance on the Route 83 / Mitchell Street side only if necessary; that he feels the use does not substantially adversely affect the uses of the adjacent and neighboring properties; that the Applicant's business will be adversely affected if the variance request is not granted.

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

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

At the conclusion of the public hearings, the Chairman referred back to this case and the Board discussed the Application. Mr. Mills stated that he would move that the Board recommend approval of Variance Application No. 11372 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The Property is unique because it is triangular in shape with a limited buildable area;
2. The Applicant needs the variance to display its large units;
3. The variances are necessary to enable reasonable use of the Property;
4. The difficulty was not created by the Applicant;
5. The variances will not alter the essential character of the neighborhood;
6. The variances will not be detrimental to the public welfare; and
7. 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 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. 11373 – Sandcap, LLC – south of Route One (Coastal Highway) 2,000 feet southwest of the top of the Route One over pass bridge and across from Road 266B (Nassau Road) and being located in Sandbar Village Development. (Tax Map I.D. 3-34-5.00-137.00)

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

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.

James Baldo was sworn in and testified requesting a special use exception to place a manufactured home type structure for a temporary sales office and submitted pictures for the Board to review; that the proposed unit will be placed adjacent to the main entrance; that the unit will be placed in the corner of the large parking lot; that the proposed unit measures twelve (12) feet by twenty-four (24) feet; that the unit will have landscaping and be removed once the sales office is constructed; that the unit will not be needed for more than one (1) year; that there are other businesses in the area; that most of the nearby properties along Route 1 were previously residences and are now commercial properties; that the use will not substantially adversely affect the uses of the adjacent and neighboring properties; and that the Applicant plans to be a good neighbor.

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 Special Use Exception Application No. 11373 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 the adjacent and neighboring properties.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the special use exception be **granted for a period of one (1) year and 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. 11374 – John McColgan & Donna McColgan – south of Road 336 (Piney Neck Road) and being east of Bayberry Court and 300 feet north of Gysea Court Cul-de-sac and being Lot 116 in The Marina at Pepper’s Creek Subdivision. (Tax Map I.D. 2-33-7.00-323.00)

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

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

John McColgan and Kevin Brosna of Insight Homes were sworn in and testified requesting a variance of 1.4 feet from the five (5) feet rear yard setback requirement for an existing deck.

Mr. Brosna testified that he is a representative of Insight Homes; that the Property is a shallow lot that is 106 feet deep; that the Applicants selected a home and deck to be built on the Property by Insight Homes; that the model home selection built on this Property is one of the shallowest models available; that the standard deck option available measures twelve (12) feet by fourteen (14) feet; that the model dwelling chosen for this lot cannot accommodate the standard morning room addition most homeowners seek; that, even if the home was placed on the front yard setback line, the home would not be able to accommodate a morning room addition; that, in order to modify the deck, the Applicants would have to remove the deck and change its structural elements; that new sod and irrigation lines would need to be put down as well; that the dwelling was constructed in line with the other dwellings on the street; that the rear yard is adjacent to open space; that the building permit said that the deck had to be no more than five (5) feet from the rear yard property line; that he believes the encroachment was due to an oversight during construction; that the dwelling was placed thirty-two (32) feet from the front yard property line; that the deck would have complied had the dwelling been placed thirty (30) feet from the front yard property line; that the Property is unique due to its shallowness; that the shallowness of the lot limits the construction models; that the Applicants have tried to limit the construction on the Property; that the Applicants did not create the difficulty; that the difficulty was created by Insight Homes who constructed the deck on behalf of the Applicants; that there are other decks in the community; that the deck will not impair the uses of neighboring properties; that there have been no complaints from neighbors; that the use is not detrimental to the public welfare; that the variance is necessary to afford relief; that the variance is the least modification to correct the issue; and that the building footprint fits within the building envelope but the house was sited improperly so the deck encroaches on the rear.

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

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

At the conclusion of the public hearings, the Chairman referred back to this case and the Board discussed the case. Mr. Rickard stated that he would move that the Board recommend denial of Variance Application No. 11374 for the requested variance based on the record made at the public hearing because the difficulty was created by the Applicants.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the variance be **denied for the reason 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. 11375 – Carolyn E. Ortwein & Ann S. Barry – west of Silver Lake Road (Route 1A) 602 feet north of Pine Lane. (Tax Map I.D. 3-34-20.09-125.00-Unit 4)

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

Mr. Lank presented the case and stated that the Office of Planning and Zoning had not received any letters in support of the Application. Mr. Lank summarized three (3) letters in opposition to the Application into the record.

Thomas Ott was sworn in and testified requesting a variance of 6.8 feet from the ten (10) feet side yard setback requirement for a proposed elevator, a variance of 0.1 feet from the ten (10) feet side yard setback requirement for the existing building, and a variance of 2.1 feet from the ten (10) feet side yard setback requirement for an existing overhang.

Mr. Ott testified that Ms. Ortwein is having knee surgery and unable to attend the hearing; that Ms. Ortwein has difficulty using steps; that she will need to use a wheelchair periodically and possibly more as the years go on; that a smaller interior elevator, as referenced in the letters of objection, will not accommodate a wheelchair; that a smaller elevator was installed in Unit 2 but a wheelchair will not fit in that size elevator; that he installed a small interior elevator in Unit 2, but, as stated, the smaller elevator will not be useful to the Applicant; that an interior elevator is not an option due to the interior design of the dwelling; that an interior elevator to the rear of the unit would interfere with the kitchen and bathrooms within the unit; that an elevator in the center of the unit would result in the need to construct walls and would be a detriment to the unit; that Ms. Ortwein cannot remain in the home if she does not have elevator access to the upper floors; the lot is unique due to its narrowness; that four (4) units are located on the survey and each of the units is narrow; that the Applicant has been diagnosed with a degenerative knee and using stairs will not be possible; that the Applicant would be forced to move if an elevator cannot be installed; that the proposed elevator will give access to all four (4) floors of the dwelling; that the elevator shaft will blend in with the exterior appearance of the dwelling; that the elevator will have the appearance of a large chimney; that the current view from the neighbors windows is the existing wall of the dwelling so the elevator will not affect sight lines or block any views; that interior

elevators will not meet Ms. Ortwein's needs; that the elevator is an improvement to the unit; that Ms. Ortwein needs the elevator; that the elevator will not be detrimental to the public welfare; that he turned the proposed elevator ninety (90) degrees to keep as far away from the side yard property line as possible; that the Property is narrow in size and the existing building contains four (4) units which makes the Property unique; that the elevator needs to be constructed outside the unit because the elevator will block stairwells if it were constructed within the unit; that the disability and need for a wheelchair creates the exceptional practical difficulty; that building an elevator on the rear of the unit would cause an extreme difficulty because of the piping on the rear of the unit for the kitchen and bathrooms; that the variances are necessary to enable reasonable use of the Property because Ms. Ortwein cannot navigate the steps anymore after her knee surgery; that the difficulty was not created by the Applicants; that Ms. Ortwein has a degenerative knee problem; that the variance will not affect the surrounding areas because it will blend in with the area and will be aesthetically pleasing; that the elevator will not impair the uses of the adjacent and neighboring properties; that the neighboring property has been developed; that the elevator will not be detrimental to the public welfare; that the variances requested are the minimum variances to afford relief; that the elevator has been turned to minimize the need for a variance; the unit has four (4) levels; that the variances are the least modifications possible to meet the needs of the Applicants; that Ms. Ortwein will not be able to navigate steps; that a small elevator would not meet Ms. Ortwein's needs; that the rooms upstairs are different in sizes from rooms downstairs; that they investigated installing the elevator inside but they could not do it because of the layout of the dwelling; that the Applicants looked at the possibility of installing a chair lift throughout the dwelling but determined that this option was more costly and would not alleviate the Applicants' concern about wheelchair accessibility; that the only option that will work is a box elevator that will fit a wheelchair; that Ms. Ortwein's mobility problems arose after she purchased the Property; that all four (4) condominium units are shown on the survey submitted with the Application; that he is not sure if the area where the elevator is to be installed is owned by the Applicants or if the area is considered common elements for the condominium; that there is no outside access to the elevator; that the HVAC unit will be relocated to accommodate the elevator and it will meet the setback requirements; that the Applicant was not aware of her condition when she purchased the unit; that the elevator installed in Unit 2 was built in an area designated for a dumb waiter when Unit 2 was originally constructed; and that there will be no exterior access to the elevator.

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

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

At the conclusion of the public hearings, the Chairman referred back to this case. Motion by Mr. Hudson, seconded by Mr. Mills, and carried unanimously that the case be **tabled until April 21, 2014**. Motion carried 5 – 0.

Case No. 11368 – Cellco Partnership d/b/a Verizon Wireless – 1,500 feet northwest of Route 24 (John J. Williams Highway) on the northeasterly side of Piaffe Lane 0.4 mile southwest of Road 297 (Mount Joy Road). (Tax Map I.D. 2-34-29.00-30.00)

An application for a special use exception to place a communications tower.

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. Mr. Lank stated that the Applicant had submitted exhibits for the Board to review.

Petro Tsoukalas, Andrew Petersohn and Sue Manchell were sworn in to testify about the Application. John Tracey, Esquire, presented the case to the Board on behalf of the Applicant and stated that the Applicant is requesting a special use exception to place a telecommunications tower; that the proposed tower will be 145 feet tall with a five (5) feet lightning rod at the top; that there is not much development in the area; that there is a Royal Farms nearby; that there are no variances being sought; that, to be licensed by the Federal Communications Commission (FCC), the Applicant must provide reliable coverage; that the proposed tower will fill a gap in coverage in the area; that there are more devices such as iPads and tablets which use the network and increase the load capacity; and that the increase in usage of devices using the network has the effect of limiting the coverage area of a network.

Mr. Petersohn testified that he is a radio frequency (“RF”) engineer tasked with finding solutions to cellular problems in the area; that he reviewed the map of the area and the Verizon coverage area; that many devices use the mobile network; that he anticipates that additional devices will use a mobile network in the future; that household appliances will soon interact with mobile devices and will use the network; that capacity is being pushed to its limit and there is no end in sight for the increase in demand for coverage; that there is an existing capacity issue at a nearby facility; that the proposed tower will help give continuous coverage along Route 24 where a coverage gap currently exists; that coverage in the area is not reliable; that the proposed tower will improve in-building coverage issues in nearby residential areas; that the proposed tower will off load coverage from other nearby facilities that are exhausting their load capacity; that the proposed tower will provide greater in building and in vehicle coverage; that the proposed tower RF emissions are 410 times less than the FCC maximum standards; that he used worst case assumptions in calculating the RF emissions from the proposed tower; and that the RF emissions are well-below the FCC safety threshold even in the worst-case scenario.

Mr. Tracey stated that the proposed tower will meet all setback, screening, and fencing requirements; that there will be a fifty (50) feet by fifty (50) feet fenced-in compound area at the base of the tower; that a stone and gravel driveway will be added to lead to the facility; and that all requirements under Sussex County Code Section § 115.194.2 have been met and are addressed in the reports submitted to the Board.

Mr. Tsoukalas testified that there will be generator in the proposed shelter; and that Verizon Wireless has always installed generators at their tower sites in case of power outages.

Mr. Tracey stated that the proposed tower will not substantially adversely affect the uses of the adjacent and neighboring properties; that the absence of opposition to the Application supports this proposed tower; that the closest neighboring residence is 560 feet away; and that trees and open space are near the proposed tower.

The Board found that two (2) parties 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. 11368 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 the adjacent and neighboring properties. The Applicant has also demonstrated that it meets all of the requirements under Sussex County Code Section § 115.194.2.

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

OLD BUSINESS:

Case No. 11348 – Maria Victoria Mazzella – north of Road 472 (Phillips Hill Road) approximately 620 feet west of Road 436 (Pusey's Road). (Tax Map I.D. 1-33-22.00-2.01)

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

The Board discussed the case, which has been tabled since March 24, 2014.

The Board reviewed the pictures of the manufactured home submitted by the Applicant as requested.

Mr. Rickard stated that he would move that the Board recommend approval of Special Use Exception Application No. 11348 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 the adjacent and neighboring properties.

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

Meeting Adjourned 10:15 p.m.