



# BOARD OF ADJUSTMENT

## AGENDAS & MINUTES

### MINUTES OF AUGUST 20, 2012

The regular meeting of the Sussex County Board of Adjustment was held on Monday, August 20, 2012, at 7:00 p.m. in the County Council Chambers, County Administrative Building, Georgetown, Delaware.

The meeting was called to order at 7:05 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 Mrs. Susan Isaacs – Chief Zoning Inspector, and Mrs. Jennifer Norwood – Recording Secretary.

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

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. 11025 – Richard G. Harris & Deborah L. Harris** – southwest corner of Old Mill Pond Road & Old Mill Bridge Road, being Lot 10 within Mill Creek Acres development. (Tax Map I.D. 5-33-12.00-31.00)

A variance from the side yard setback requirement.

Mrs. Isaacs presented the case. Richard Harris was sworn in and was present with Manean Robinson, Attorney. Manean Robinson presented the case to the Board and stated that the Applicants are requesting a 1.7-foot variance from the required 15-foot side yard setback requirement for an existing attached garage; that the Applicants purchased the property on September 21, 2011; that the survey completed for settlement showed the encroachment; that the dwelling was constructed in 1981; that the Applicants would have to tear down a portion of the garage in order to comply with the Sussex County Zoning Code; that the variance will enable reasonable use of the property; that it will not alter the character of the neighborhood because the garage has been in place for many years; that the attached garage was constructed in 1987; that there has not been a Certificate of Compliance issued for the attached garage; that one of the sheds on the property has been removed; and that they submitted a petition of support to the application. Mr. Harris, under oath, confirmed the statements by Mr. Robinson.

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

Mrs. Isaacs stated that a petition with 5-signatures of support was submitted.

Mr. Mills stated that he would move that the Board recommend approval of Variance Application No. 11025 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The property is a corner lot and narrow in size making it unique;
2. The difficulty was not created by the Applicant;
3. The variance will enable reasonable use of the property;
4. The variance, if granted, will not alter the essential character of the neighborhood;
- and
5. The variance sought is the minimum variance 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. Workman – yea, Mr. Hudson – yea, Mr. Mills – yea, Mr. Rickard – yea, and Mr. Callaway – yea.

**Case No. 11026 – Robert M. Clark & John M. Stull** – south of Road 277 (Angola Road) east of Elmwood Avenue West, being Lot 29 & ½ Lot 28 within Angola by the Bay development. (Tax Map I.D. 2-34-17.08-232.00)

A variance from the rear yard setback requirement.

Mrs. Isaacs presented the case. Linda Bova, of Sea Bova Associates was sworn in and was present with Adam Gerber, Attorney. Mr. Gerber presented the case to the Board and stated that the Applicants are requesting a 1.3-foot variance from the required 20-foot rear yard setback requirement for an existing dwelling and a 4.2-foot variance from the required 15-foot rear yard setback requirement for an existing deck with steps; that the Applicants purchased the property in 1992; that the existing dwelling was constructed in the mid 1980's; that the survey shows two iron pipes marking the property; that the pipe used to measure the placement of the dwelling created the encroachment; that the variances are the minimum to afford relief; that the variance is necessary to enable reasonable use of the property; that the difficulty was not created by the Applicant; and that the variances will not alter the character of the neighborhood. Ms. Bova testified that she has been a realtor in the area for 15 years; that she is familiar with the Angola by the Bay development; that she believes the variances will not alter the character of the neighborhood; that the variance will not impair the uses of neighboring properties; that removal of the deck and house would be costly to the Applicants; that encroachment existed prior to 1992; and that she attributes the iron pipe placement to the encroachment problems. Ms. Bova, under oath, confirmed the statements by Mr. Gerber. The Applicants submitted a packet of information to the Board.

The Board found that 1-party appeared in support of the application.

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

Mrs. Isaacs stated that the office received 5-letters of support to the application.

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11026 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The property is unique since it has 2-iron pipes to mark one corner of the property line;
2. The difficulty was not created by the Applicant;
3. The variance, if granted, will not alter the character of the neighborhood; and
4. The variance sought is the minimum variance 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. Workman – yea, Mr. Rickard – yea, and Mr. Callaway – yea.

**Case No. 11027 - Susan & Ronald Worthington** – west of Road 362 (Parker House Road) north of Maple Street, being Lot 19 within Shady Dell Park development. (Tax Map I.D. 1-34-16.00-323.00)

A variance from the front yard setback requirement.

Mrs. Isaacs presented the case. Kathleen Keller, a prior owner of the Property, was sworn in and was present with Adam Gerber, Attorney. Mr. Gerber presented the case to the Board and stated that the Applicant is requesting a 12.5-foot variance from the required 30-foot front yard setback requirement for an existing dwelling; that the property is irregular in shape; that the dwelling is located parallel to the street, not the property line, and is in a strange location; that the manufactured home was placed on the Property in 1998; that the Applicants purchased the property in 2012; that the previous owner, Ms. Keller, purchased the property in 2001; that the encroachment was not discovered at that time; and that a Certificate of Compliance was issued in 1998 for the manufactured home. Ms. Keller testified that she purchased the property in November 2001 after obtaining a survey and title insurance; that she did not learn of the encroachment until right before settlement of the sale of the Property to the Applicants; that she installed a screen porch and received a Certificate of Compliance for it as well; that she maintained Parcel 322, which is adjacent to the Property, during the period of her ownership; that she was not aware that Parcel 322 was a separate parcel; that Parcel 322 significantly protrudes further into the road than Parcel 323; that it will not alter the character of the neighborhood; and that the difficulty was not created by the Applicant. The Applicants submitted copies of a letter from the Homeowner's Association and copies of the building permit. Ms. Keller, under oath, confirmed the statements by Mr. Gerber.

The Board found that 4-parties appeared in support of the application.

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

Mr. Hudson stated that he would move that the Board recommend approval of Variance Application No. 11027 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The property is irregular in shape making it unique;
2. The difficulty was not created by the Applicant;
3. The property cannot be otherwise developed in strict conformity;
4. The variance, if granted, will not alter the character of the neighborhood; and
5. The variance sought is the minimum variance to afford relief.

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

**Case No. 11028 – Two Farms, Inc.** – southeast corner of Route 13 (Sussex Highway) & Route 24 (Laurel Road)(Tax Map I.D. 3-32-1.00-101.00).

A variance from the front yard setback requirement and a variance from the buffer requirement in a highway corridor overlay zoning district.

Mrs. Isaacs presented the case. Garth Jones was sworn in and testified requesting on behalf of the Applicant a 15-foot variance from the required 60-foot front yard setback requirement for a proposed gas canopy and gas pumps and a variance from the buffer requirement in a highway corridor zoning district. Mr. Jones testified that the Applicant proposes to place a Royal Farms gas station / convenience store on two parcels (Parcel 100 and Parcel 101); that Parcel 100 is zoned Agricultural Residential (AR-1) and that Parcel 101 is zoned Commercial (C-1); that the Sussex County Planning & Zoning Commission recommended approval of a conditional use application submitted by Applicant for the proposed Royal Farms store; that the Sussex County Council approved the conditional use application with conditions; that the Planning & Zoning Commission rescinded the landscape buffer requirement for Parcel 100 due to safety concerns; that the Applicant seeks a variance of the landscape buffer requirement for Parcel 101 through this Application; that the Property is a corner lot; that the existing auction building will remain and continue to operate; that the Applicant also seeks a fifteen (15) foot variance from the front yard setback requirement for the placement of gas pumps and a canopy to cover those pumps; that the Planning & Zoning Commission required that the Applicant place a fifteen (15) foot buffer from the lands of a neighbor to the east of the Property; that due to the additional buffer, the existing building, the storm water management area and the septic system, the Applicant was required to move its project closer to Route 13; that the gas pumps without the canopy do not require a variance; that the canopy is considered an

accessory structure; that only a portion of the proposed canopy will be located in the setback area; that the variance, if granted, will afford the tankers and emergency vehicles with sufficient space to maneuver on the Property; that the hardship is created by the site's constraints and the conditions of the approved Conditional Use; that the variances will not alter the character of the neighborhood; that there is another gas station with a canopy across the street from the Property and that the pumps and the canopy are entirely in the setback area for that project; that these variances are the minimum variances to afford relief and are the least modification of the regulation in issue; that the required landscaping would create a dangerous situation for ingress and egress to the property; and that the Commission could not waive the buffer requirement in a Commercial Zoning District. Mr. Jones also submitted exhibits to the Board.

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

Mrs. Isaacs read 1-letter of concern from Carolyn O'Neal into the record.

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11028 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The uniqueness of the project is due to the 2-parcels with 2-separate zonings;
2. The variance is needed to enable reasonable use of the property;
3. The variance, if granted will not alter the character of the neighborhood;
4. The variance sought is the minimum variance to afford relief;
5. The variance is the least modification possible of the regulation in issue; and
6. The variance will not be detrimental to the public welfare.

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

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

**Case No. 11029 – Hertrich Properties XI, LLC** – east of Route 13 (Sussex Highway) approximately 300 feet north of Bethel Concord Road. (Tax Map I.D. 1-32-7.00-36.01 & 36.04)

A variance from the front yard setback requirement and a variance from the landscape buffer requirement in a highway corridor overlay zoning district.

Mr. Sharp stated that he previously represented the Applicant, that he felt his participation could be a conflict of interest, and that if the Board felt they needed to seek legal counsel, Vince Robertson would be available to advise the Board prior to a final decision.

Mrs. Isaacs presented the case. Al Guckes, George Sapna, Barry Neal and Brock Parker were sworn in and testified requesting a 20-foot variance from the required 25-foot requirement for display and a 20-foot variance from the required 20-foot landscape buffer requirement for the Highway Corridor Overlay Zone. Mr. Guckes testified that the Applicant seeks to place a

leasing dealership and office on the Property and that the Applicant purchased the Property in December 2011. Mr. Sapna testified that he is the President of Freedom Rides, Inc., which is a leasing company that helps individuals purchase vehicles; that his company intends to lease the existing structure from the Applicant; that his company was founded in 2009 to help people with poor credit purchase vehicles; that the company has grown from 2 employees to 30 employees at their Cheswold sales lot; that the proposed location will need approximately 36 employees; that the location was previously Burke Equipment as a sales and display area; that they seek to use the existing parking lot to maximize visibility for sales of vehicles; that the variance is necessary to help his company achieve its sales goals; and that they will meet the signage requirement.

Mr. Brock Parker testified that he is a land use planner and designed the proposed site plan; that there is currently no Storm Water Management area and the existing septic system is failing; that there will be an addition constructed to the existing building; that the new septic system and Storm Water Management area will be to the rear of the Property; that the Applicant plans to pave the entire existing stone display area; that the paved area will stop approximately 46 feet from Route 13 thereby leaving nearly 50 feet of green space between the lot and the road; that the Applicant does not intend to pave outside the existing stone area and display area will not be closer to Route 13 than the existing stone display area; that the existing stone display area is five (5) feet from the property line; that the variance will enable reasonable use of the property; that the difficulty was not created by the Applicant; that the prior owner used the Property in a similar manner to which the Applicant seeks to use the Property; that the variances, if granted, will not alter the character of the neighborhood; that other similar sites exist along Route 13 nearby the Property; that the variances sought are the minimum variances to afford relief; that there will be approximately 140 parking spaces available on the lot; and that without the variances the Applicant will lose all available parking in the front of the property. Mr. Parker submitted to the Board an aerial photograph of the Property and pictures of other similar sites along Route 13.

The Board found that 3 parties appeared in support of the application.

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

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

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

At the conclusion of the public hearings, the Chairman referred back to this case. Mr. Hudson stated that he would move that the Board recommend approval of Variance Application No. 11029 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The property is unique due the use of the Property by the prior owner;
2. The difficulty was not created by the Applicant;
3. The variances will enable reasonable use of the property;

4. The variances, if granted, will not alter the essential character of the neighborhood as the Property has been used in this fashion for quite some time; and
5. The variance sought is the minimum variances to afford relief.

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

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

**Case No. 11030 – Ms. Teresa McTernan** – west of Road 455 (Brittingham Road) approximately 527 feet north of Route 54 (Line Road). (Tax Map I.D. 5-32-22.00-26.01)

A special use exception to operate a daycare facility.

Mrs. Isaac presented the case. Teresa McTernan and John McTernan were sworn in and testified requesting a special use exception to operate a daycare facility. Ms. McTernan testified that she was licensed for a home daycare in June 2012; that she is requesting a special use exception to expand from a Level 1 daycare to a Level 2 daycare; that she currently provides care for five (5) children; that, if approved for a Level 2 daycare, she will care for 6 pre-school aged children and 3 school aged children; that her hours of operation will be Monday through Friday from 7:00 a.m. to 5:30 p.m.; that she was also licensed for a Level 2 daycare from 1988 to 1993; that she operated a daycare for sixteen (16) years at another location; that there is adequate parking on the Property; that the play area is to the rear of the property; and that family members own the adjacent properties.

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

The Board found that one party appeared in support of the application.

Mr. Rickard stated that he would move that the Board recommend approval of Special Use Exception Application No. 11030 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. Workman – yea, Mr. Rickard – yea, and Mr. Callaway – yea.

**Case No. 11031 – East Coast Defense LLC** northeast of Route 474 (Dukes Lumber Road) approximately 981 feet northwest of Route 475 (Sycamore Road). (Tax Map I.D. 2-32-8.00-5.04)

A special use exception for rifle/pistol range for shooting not to exceed a period of five (5) years.

Mrs. Isaacs presented the case. Evan Rogers, Barry Dukes, II and Barry Dukes were sworn in and testified requesting a special use exception for a rifle/pistol range for shooting not to exceed a period of five (5) years. Mr. Rogers testified that the proposed shooting range will be located on a thirteen (13) acre parcel; that the Applicant intends to construct an earthen berm approximately twelve (12) feet tall that will be modeled after National Rifle Association (NRA) guidelines; that the berm will be located a considerable distance from neighboring properties; that the shooting range will have no adverse effect on neighbors; that the Applicant intends to conduct classes on pistol instruction on the Property; that the students will practice by shooting into the berm under the supervision of Mr. Rogers and Mr. Dukes II; that he is a law enforcement officer for the Town of Millsboro; that the instructors are applying for certification by the NRA; and that rifles and shotguns will not be used at the shooting range.

Mr. Dukes II testified that the Property is largely wooded and that neighboring properties are wooded as well; that his father Barry Dukes lives nearby; that the proposed berm will measure 12' x 15' in size; that there are no structures on the Property; that the Applicant plans to hold private classes to instruct students on how to shoot pistols; that the students will shoot into the berm from a seated position approximately fifteen (15) feet from the berm; that there will be a maximum of four (4) people shooting at a time; that the classes will have a maximum of twelve (12) students and will be held one Saturday a month from 8:00 a.m. to 4:00 p.m.; that the closest dwelling is over 1,000-feet from the berm site; that there will be no competitions held at the site; that there is adequate parking and the students will be shuttled to the site; that the road used to access the site is not for public access; that there is approximately 400 feet of wooded property behind the berm site; and that the students will fire target rounds.

The Applicants presented a survey of the Property and neighboring areas to the Board.

Mrs. Isaacs read a letter into the record from a neighbor with concerns.

Mr. Dukes II testified that he also received the letter from the neighbor and spoke with the neighbor to address his concerns.

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. 11031 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. Mills, seconded by Mr. Rickard, and carried unanimously that the special use exception be **granted for the reasons stated and with the stipulation that class will only be held on one (1) Saturday of the month from 8:00 a.m. to 4:00 p.m. and that the special use exception be granted for a period of five (5) years.** Motion carried 5 – 0.



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

**Case No. 11032 – Jeff Pearson** – north of Route 16 (Beach Highway) approximately 974 feet east of Route 42 (North Union Church Road).(Tax Map I.D. 2-30-26.00-5.15)

A variance from the front yard setback requirement.

Mrs. Isaacs presented the case. Jeff Pearson and Donald Miller were sworn in and testified requesting a 2.8-foot variance from the required 40-foot front yard setback requirement for an existing dwelling. Mr. Miller testified that he is a land surveyor; that a ten (10) acre parcel was purchased in 2008 to settle a foreclosure; that the previous owner (Triumpf, LLC) subdivided the parcel into four (4) lots; that a ten (10) foot right-of-way was dedicated for a permanent easement for the Delaware Department of Transportation (“DelDOT”) in order to obtain approval for the subdivision; that the location of the septic system prevented the dwelling from being placed further back on the lot; that the right-of-way area limited the building envelope; and that it will not alter the character of the neighborhood.

Mr. Pearson testified that he was issued a permit for the dwelling and the inspector approved the location of the dwelling but had a question as to the setback area.

Mrs. Isaacs stated that the Applicant obtained a building permit for the existing shed.

The Board found that 3-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 Variance Application No. 11032 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The Property is unique because of its shape and the location of the septic system;
2. The variance will enable reasonable use of the property;
3. The difficulty was not created by the Applicant;
4. The variance, if granted will not alter the essential character of the neighborhood; and
5. The variance sought is the minimum to afford relief.

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

**Case No. 11033 – Bryan D. Dattilo & Angela M. Dattilo** – north of Road 505 (Ralphs Road) approximately 3,006 feet west of Road 509 (Susan Beach Road).(Tax Map I.D. 5-32-4.00-10.03)

A variance from the required ten (10) acres or more to place a manufactured home and a variance from the minimum lot width requirement for a parcel.

Mrs. Isaacs presented the case. Bryan Dattilo and Jansen Burton was sworn in and testified requesting a variance from the ten (10) acres or more to place a manufactured home and a 100-foot variance from the required 150-foot lot width requirement for a parcel. Mr. Burton testified that the Applicants were approved by the Board in 2009 for the same request but the approval lapsed. Mr. Dattilo testified that he was unable to place the manufactured home on the Property within the time frame of the original approval due to financial reasons; that he has owned the property for 30 years; that the subdivision of the property is for his children; that the Property consists of approximately five (5) acres; that the application is essentially the same as the application submitted to the Board in 2009; and that he already subdivided a parcel for his daughter.

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

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11033 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The Applicant was approved for the same request in 2009; and
2. The request will not have an adverse effect to the adjacent neighboring properties.

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

### **OLD BUSINESS**

**Case No. 11017 – Robert de Andrade & Mary de Andrade** – south of Route 1 (Coastal Highway) southwest corner of Draper Drive & Venetian Drive, being Lot B-10 within Seabreeze development. (Tax Map I.D. 3-34-20.13-238.00)

A variance from the front yard setback requirement.

The Board discussed this case which has been tabled since August 6, 2012.

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11017 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The property is unique since it is a corner lot;
2. The variance, if granted will not alter the character of the neighborhood;
3. The variance sought is the minimum variance 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. Workman – yea, Mr. Rickard – yea, and Mr. Callaway – yea.

**Case No. 11018 – Margaret R. Taylor** – southeast corner of Bi-State Boulevard (Route 13A) & Horsey Road. (Tax Map I.D. 3-32-3.00-62.00)

A determination of existence of use.

The Board discussed the case which has been tabled since August 6, 2012.

Mr. Mills stated that he would move that the Board recommend approval of Application No. 11018 for the determination of existence of use based on the record made at the public hearing and since the Applicant proved the property has been used for multi-family purposes of five (5) residential units and one (1) residential manufactured home since prior to the enactment of the Sussex County Zoning Code and that said use has continued without a lapse of at least two (2) years.

Motion by Mr. Mills, seconded by Mr. Rickard, and carried unanimously that the Board determined that the current use of the Property **for multi-family purposes of five (5) residential units and one (1) residential manufacture home is a pre-existing, non-conforming use.** 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. 11024 – Diamond State Pole Building** – northeast of Road 620 (Abbotts Pond Road) approximately 1,485 feet west of Road 633 (Griffith Lake Drive), being Lot 2. (Tax Map I.D. 1-30-2.00-13.11)

A variance from the side yard setback requirement.

The Board discussed the case which has been tabled since August 6, 2012.

Mr. Hudson stated that he would move that the Board recommend approval of Variance Application No. 11024 for the requested variance based on the record made at the public hearing and for the following reasons:

1. There is uniqueness due to the location of the pool;
2. The variance, if granted will not alter the essential character of the neighborhood; and
3. The variance sought is the minimum to afford relief.

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

**Meeting Adjourned 9:40 p.m.**