

MINUTES OF JANUARY 28, 2012

The regular meeting of the Sussex County Board of Adjustment was held on Monday, January 28, 2013, at 7:00 p.m. in the County Council Chambers, County Administrative 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 Mr. James Sharp – Assistant County Attorney, and staff members, Mrs. Susan Isaacs – Chief Zoning Inspector, and Mrs. Jennifer Norwood – Recording Secretary.

Motion by Mr. Workman, seconded by Mr. Rickard, and carried unanimously to approve the Revised Agenda with Case No. 11106 – Alice P. Robinson, listed under Old Business moved to the beginning of the Agenda. Motion carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of December 17, 2012 and January 7, 2013 as circulated. Motion carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Rickard, and carried unanimously to approve the Finding of Facts for December 17, 2012 and the Finding of Facts for January 7, 2013. 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.

OLD BUSINESS

Case No. 11106 – Alice P. Robinson – north of Route 1 (Coastal Highway) northwest corner of Terrace Road and Silver Lane, being ½ Lot 2, 3, 4, 5 & ½ 6 within Silver Lake Manor development. (Tax Map I.D. 3-34-20.05-325.00 & 326.00)

An application for variances from the required lot size requirement for a parcel, the minimum lot width for a parcel and the corner side yard setback requirement.

Mr. Sharp reviewed the cases that were referenced at the public hearing and the letters submitted by the attorneys for the Applicant and the opposition to the Board. The Board discussed the Application.

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

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

At the conclusion of the public hearings the Board discussed the Application that was taken under advisement earlier this evening.

Mr. Sharp stated that the statements by attorneys for the Applicant and the opposition at the public hearing were affirmed by their respective clients.

Mr. Rickard stated that he believes the lots can be subdivided and that the lots can be developed.

Mr. Mills stated that the half lots are not buildable lots on their own and a variance is needed to enable reasonable use; that one of the half lots was acquired after the road was built; that there were four (4) lots which were 50 feet wide in 1929.

Mr. Rickard stated that you cannot build on a lot that is 25 feet wide.

Mr. Mills stated that about half the lots in the neighborhood are fifty (50) feet wide or larger; that the front yard setback from Silver Lane will allow visibility from the corner lot; and that the Applicant could build 5,000 to 7,500 square feet structures on three (3) fifty feet wide lots.

Mr. Rickard stated there was concern of the existing drainage problem in the area that more lots would increase this difficulty.

Mr. Mills stated that the lots are unique; that there are other lots which are 50 feet wide in the neighborhood; that a large dwelling built on the existing property could create the same run off problem; that the lots were changed from the original subdivision; that the Property was originally developed to have 50 feet wide lots; and that the Applicant is only looking to restore those lots.

Mr. Hudson stated that he believes the Applicant meets the standards for granting a variance.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the case be **tabled until February 4, 2013**. 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.

PUBLIC HEARINGS

Case No. 11139 – James P. Azato – southwest of Road 312 (River Road) approximately 840 feet southeast of Road 313A (Downs Landing Road). (Tax Map I.D. 2-34-34.00-329.00)

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

Mrs. Isaacs presented the case. James Azato and Lynn Azato were sworn in and testified requesting a variance of 14.5 feet from the 15 feet side yard setback requirement and a variance of 19 feet from the 20 feet rear yard setback requirement for an existing carport and lean to. James Azato testified that the carport was constructed on the Property eight (8) years ago; that the neighbor who filed a complaint about the encroachment is on the opposite side of the encroachment; that the Application has the support of his other neighbors; that he shares a driveway with a neighbor on the encroaching side of the Property; that he was not aware building permits were not obtained by the contractor he hired to construct the carport; that he relied on the contractor to obtain the necessary permits and approvals; that there is a large tree on the Property which prevents the carport from complying with the setback requirement; and that the Property is unique due to the existing tree.

Lynn Azato testified that the existing dwelling is L-shaped and creates an exceptional practical difficulty to comply with the setbacks; that the carport cannot be constructed in strict conformity and still be accessed; that the garage could not be accessed if the carport was moved; that the variances will enable reasonable use of the Property; that the use does not impair the use of neighboring properties and is not detrimental to the public welfare; and that the carport and the lean to do not alter the character of the neighborhood.

James Azato testified that there is an existing pump house on the Property to the rear and cannot be otherwise developed.

Lynn Azato testified that the carport is in line with the existing driveway and is used to store their motor home; that if the variances are not granted, they will have to remove the carport and lean to; and that the variances requested are the minimum variances necessary to afford relief.

The Board found that four (4) parties 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 one (1) letter in support of the Application.

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11139 for the requested variances based on the record made at the public hearings and for the following reasons:

1. There are unique physical conditions on the Property;
2. The variances are necessary to enable reasonable use of the Property;

3. The difficulty was not created by the Applicant because the builder created the problem;
4. The variances will not alter the essential character of the neighborhood; and
5. The variances sought are the minimum variances necessary to afford relief.

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

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

Case No. 11140 – Janet Horgen and James Horgen – south of Road 360 (Fred Hudson Road) east of Bethany Loop, being Lot 266 within The Salt Pond, Phase I development. (Tax Map I.D. 1-34-13.00-1500.00)

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

Mrs. Isaacs presented the case. Janet Horgen was sworn in and testified requesting a variance of 2 feet from the 10 feet side yard setback requirement and a variance of 2 feet from the 10 feet rear yard setback requirement for a proposed addition; that she purchased the Property six years ago; that the Property is located in Salt Pond; that her husband has been diagnosed with Spinal Stenosis; that the proposed addition will include a first floor bedroom and will be handicap accessible for her husband; that the extra two feet is necessary to make the addition wheelchair accessible; that the Property is adjacent to a stream; that the variances will not have an adverse effect to the neighborhood; that it would be impossible to add onto the dwelling elsewhere since it would ruin the street view of the house; that the existing dwelling was built to the rear of the lot since the front yard is heavily wooded creating a uniqueness to the Property; that the variances are needed to enable reasonable use of the Property; that the difficulty was not created by the Applicant; that the variances are the minimum variances necessary to afford relief. Mrs. Horgen submitted pictures in support of the Application.

Donna Villani was sworn in and testified in opposition to the Application. Ms. Villani testified that she is Chairperson on Salt Pond's Architectural Committee; that the Applicants submitted plans to the Committee in October 2012; that the Committee denied the plans; that there are no unique physical circumstances to the lot; that the lot measures 8,530 square-feet in size; that the lot is rectangular in shape; that the proposed addition will include a bedroom, bathroom, laundry room, atrium and a deck; that the variances would adversely affect the appropriate use and development of the adjacent property; that no large area variances have been granted in Salt Pond as most variances are for inches and not feet; that the approval of the Application would set a negative precedent in the community; that the variances will alter the essential character of the community; that the proposed atrium is not necessary and could be removed; and that the proposed addition can be altered to be built in strict conformity with the

Sussex County Zoning Ordinance. Ms. Villani submitted to the Board a copy of the proposed floor plan of the addition.

In rebuttal, Janet Horgen, testified that she was not aware the committee denied her plans; that the proposed addition will take up most of the open deck; that without the atrium they would lose their view of the Property; that the existing laundry room is upstairs; that the existing first floor also has a step down great room; and that the existing dwelling was constructed by someone else in 1992.

James Horgen was sworn in and questioned why the Architectural Committee denied their plans and what they could do differently.

The Board found that five (5) persons appeared in support of the Application.

The Board found that four (4) persons appeared 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.

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. Rickard stated that he would move that the Board recommend denial of Variance Application No. 11140 for the requested variance since the difficulty has been created by the Applicant.

Motion by Mr. Rickard, seconded by Mr. Mills, and carried unanimously that the variance be **denied since the difficulty has been created by the Applicant**. 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. 11141 – Brian J. McMullen – southeast of Road 274 (Old Landing Road) north of Spruce Road, being Lot 49 within Pine Valley a Mobile Home Park. (Tax Map I.D. 3-34-13.00-164.00-Unit 49)

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

Mrs. Isaacs presented the case. Brian McMullen was sworn in and testified requesting a variance of 0.2 feet from the 20 feet separation requirement from a deck on Lot 50, a variance of

1.8 feet from the 20 feet separation requirement from a unit on Lot 50, a variance of 2.2 feet from the 20 feet separation requirement from a set of steps on Lot 50, a variance of 1 foot from the 20 feet separation requirement from a unit on Lot 48, a variance of 4.2 feet from the 20 feet separation requirement from a set of steps on Lot 48, a variance of 4.4 feet from the 20 feet separation requirement from a set of steps on Lot 48, a variance of 1 foot from the 20 feet separation requirement from a unit on Lot 48, and a variance of 6 feet from the 20 feet separation requirement from a unit on Lot 55. Mr. McMullen testified that the proposed unit is a three (3) bedroom, single-wide unit; that the unit is for his family; that the lot is narrow and cannot be built in strict conformity with the Sussex County Zoning Ordinance; that the neighboring units are too close to the Property and create the difficulty; that the dwellings on the neighboring lots encroach into the setback area; that the variances will enable reasonable use of the Property; that the variances will not alter the essential character of the neighborhood; that the dwelling is similar to other homes in the neighborhood; that the proposed dwelling is the average size dwelling in the community; that the dwelling on Lot 48 is very close to the property line; that the variances sought are the minimum variances necessary to afford relief; that the neighbors support the Application; and that the mobile home park supports the Application.

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.

Mrs. Isaacs stated that the Office of Planning & Zoning received four (4) letters in support of the Application.

Mr. Mills stated that he would move that the Board recommend approval of Variance Application No. 11141 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The Property is unique since the neighboring units are so close;
2. The Property cannot be developed in strict conformity with the Sussex County Zoning Code;
3. The variances are necessary to enable reasonable use of the Property;
4. The difficulty was not created by the Applicant as the neighbors created the problem by building too close to the Property;
5. The variances will not alter the essential character of the neighborhood as this community is a manufactured home community; 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 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. 11142 – James Michael Henry – south of Road 549 (Old Carriage Road) approximately 530 feet west of Road 80 (Woodpecker Road). (Tax Map I.D. 5-31-11.00-59.01)

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

Mrs. Isaacs presented the case. James Henry was sworn in and testified requesting a variance of 1.1 feet from the 15 feet side yard setback requirement for an existing pole building. Mr. Henry testified that a pole building was constructed on the Property 8 years ago by Delmarva Pole Building; that the pole building encroaches into the setback area; that the front corner was staked for the location of the proposed pole building; that the pole building was placed in a manner that is not parallel with the property line; that the property line angles in towards the rear of the property; that the Property is an odd shape and is narrow; that a Certificate of Compliance was issued for the pole building by the Planning & Zoning Department; that recent trouble with his neighbor is how the encroachment was discovered; that the difficulty was not created by the Applicant since he trusted the builder to comply with the setback requirements; that the variance will not be detrimental to the public welfare; that the variance is necessary to enable reasonable use of the Property; that there are other pole buildings in the neighborhood so the pole building in question will not alter the character of the neighborhood; that the adjacent property is vacant; that the existing lean to is not attached to the pole building and that the fence does not run along the property line; that the variance requested is the minimum variance necessary to afford relief; and that the pole building would have to be torn down in order to comply with the zoning requirements. Mr. Henry submitted a picture of the Property to the Board.

The Board found that one (1) party appeared in support of the Application.

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

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11142 for the requested variance based on the record made at the public hearings and for the following reasons:

1. The Property is unique;
2. The Certificate of Compliance was issued;
3. The difficulty was not created by the Applicant;
4. The variance is necessary to enable reasonable use of the Property; and
5. The variance sought is the minimum variance necessary to afford relief.

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

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

Case No. 11143 – Sussex Sports Amenities, LLC – north of Lakeview Drive approximately 450 feet east of Americana Parkway, being Lot 2 within Americana Bayside development. (Tax Map I.D. 5-33-19.00-36.01)

An application for a special use exception to retain a mobile home type structure as a temporary golf clubhouse/pro shop for a period of five (5) years.

Mrs. Isaacs presented the case. Doug Brown was sworn in and testified requesting a special use exception to retain a mobile home type structure as a temporary golf clubhouse/pro shop for a period of five (5) years. Mr. Brown testified that he is the Vice-President of Carl Freeman which owns the Bayside Golf Course; that the mobile home structures are attached to an existing permanent structure; that the permanent structure is the Cove Bar and Grill which was built in the summer of 2010; that the mobile home type structures are used as the kitchen for the Cove Bar and Grill and a golf pro shop; that the Applicant plans to build a permanent clubhouse once the golf club reaches 200 members; that the Cove Bar and Grill was built to attract new members and provide a new amenity to current 118 members; that the Applicant was originally approved for a special use exception in 2005 and obtained a three (3) year extension in 2009; that the trailers were placed on the site in 2005; that some members do not want a large expensive clubhouse; that the Applicant has surveyed members to ascertain the type of clubhouse they desire; and that the Applicant is confident a permanent structure can be built within in the next five (5) years. Mr. Brown submitted exhibits to the Board.

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. 11143 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. Workman, and carried that the special use exception be **granted for the reasons stated for a period of five (5) years**. Motion carried 4 – 1.

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

Case No. 11144 – Perry Stutman & Sheila Stutman – south of Route 54 (Lighthouse Road) east of Spicer Lane, being Lot 4 within Mason Dixon a Mobile Home Park.(Tax Map I.D. 1-34-23.20-70.00-Unit 9973)

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

Mrs. Isaacs presented the case. Perry Stutman was sworn in and testified requesting a variance of 14 feet from the 20 feet separation requirement between units in a mobile home park for an existing porch. Mr. Stutman testified that the unit is a 1969 model; that the unit is 10 feet by 48 feet in size; that a 10 feet by 20 feet addition was built on the unit prior to the Applicant purchasing the unit; that the existing roof leaked and had to be repaired; that he had an “A” type roof constructed over the existing unit and addition; that the existing patio is 10 feet by 10 feet in size and was raised; that the roof extended to create a screen porch; that the existing structures do not exceed the original footprint; that when he submitted plans and obtained the building permits he was not aware of the 20 feet separation requirement; that the manufactured home community was established in the 1960s; that the units in the community do not meet the separation requirement; that the screen porch offers a peaceful space to relax outdoors; that the variance will allow the Applicants to reasonably use the Property; that neighbors have complimented the Applicants on the porch; that the porch will enhance the character of the neighborhood; that the Property is unique; that the Property cannot be developed in strict conformity with the Sussex County Zoning Ordinance; that the difficulty was not created by the Applicants; that the variance will not alter the character of the neighborhood; and that the variance sought is the minimum variance necessary to afford relief. Mr. Stutman submitted a packet of documents to the Board to review.

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 Variance Application No. 11144 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The age of the mobile home park creates a unique situation;
2. The variance is necessary to enable reasonable use of the Property;
3. The difficulty was not created by the Applicants;
4. The variance will not alter the essential character of the neighborhood;
5. The variance sought is the minimum variance necessary to afford relief; and
6. The variance will not be detrimental to the public welfare.

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

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

Case No. 11145 – Ivan Nikolov Sabroutev – northwest of Route 48 (Zoar Road) approximately 1,800 feet south of Road 302A (Avalon Road). (Tax Map I.D. 2-34-15.00-27.01)

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

Mrs. Isaacs presented the case. Ivan Sabroutev was sworn in and testified requesting a variance of 2 feet from the 10 foot side yard setback requirement for an existing open deck, a variance of 3.2 feet from the 10 foot side yard setback requirement for an existing manufactured home, a variance of 6.8 feet from the 10 foot rear yard setback requirement for an existing attached garage, a variance 39.6 feet from the 40 feet front yard setback requirement for an existing shed, and a variance of 22.8 feet from the 40 feet front yard setback requirement for an existing shed. Mr. Sabroutev testified that the manufactured home existed on the Property when purchased the lot; that he relocated the manufactured home so that he could build a dwelling on the Property; that the foundation for the dwelling is constructed; that he must sell his property in Bulgaria before he can complete the dwelling; that the manufactured home, attached garage, deck and shed will be removed when the dwelling is complete; that when he is able to begin construction on the dwelling he will resubmit plans and obtain a new building permit; that the sheds currently store materials needed to construct the dwelling; that his daughter has owned the Property for four (4) years; that the manufactured house has been on the Property before she purchased the Property; and that his neighbors have no objection to the Application. Mr. Sabroutev submitted a statement from his daughter giving him permission to speak on her behalf.

Mrs. Isaacs advised the Board that a manufactured house has been on the Property since 1984 and that the manufactured house was replaced with a newer model in 2012.

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

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

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

At the conclusion of the public hearings, the Chairman referred back to this case. Mr. Mills stated that he would move that the Board recommend approval of Variance Application No. 11145 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The Property is unique since he plans to construct a new dwelling;
2. The variance is necessary to enable reasonable use of the Property;
3. The difficulty was not created by the Applicant;
4. The variance will not alter the essential character of the neighborhood; and
5. The variance sought is the minimum variance necessary to afford relief.

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

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

Case No. 11146 – Robert L. Niblett and Candy C. Niblett – southeast of Road 485 (Bethel Concord Road) approximately 1,800 feet south of Road 302A (Avalon Road). (Tax Map I.D. 2-34-15.00-27.01)

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

Mrs. Isaacs presented the case. Robert Niblett was sworn in and testified requesting a variance of 50 feet from the 150 feet lot width requirement for Parcel A and a variance of 14.94 feet from the 150 feet lot width requirement for Parcel B. Mr. Niblett testified that he wants to subdivide the 2.5 acre parcel into two (2) lots known as Parcel A and Parcel B; that an elderly couple lives in the existing manufactured home located on the Property; that he wants to build a dwelling on the proposed parcel; that a neighboring parcel is surrounded on three sides by the Property and thus creates a uniqueness to the property by creating to separate road frontages for the Property; that the proposed variances will not alter the existing road frontage of the existing parcel; that the proposed lot width is not out of character with the neighborhood; that the variances will enable reasonable use of the Property; that the request represents the least modification possible; that the difficulty was not created by the Applicants; and that the sheds will be moved into compliance with the Sussex County Zoning Ordinance.

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

Mrs. Isaacs stated that the Office of Planning & Zoning received one (1) letter in support of the Application.

Motion by Mr. Hudson, seconded by Mr. Workman, and carried unanimously to take the case under advisement. Motion carried 5 – 0.

The vote by roll call; Mr. Rickard – yea, Mr. Mills – yea, Mr. Workman – yea, Mr. Hudson – 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. 11146 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The Property is unique due to the way in which the parcel was originally subdivided;
2. The variances are necessary to enable reasonable use of the Property;
3. The difficulty was not created by the Applicants because the Applicants did not create the subdivision;
4. The variances will not alter the essential character of the neighborhood; and
5. The variances sought are the minimum variances necessary to afford relief.

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

Case No. 11147 – Gary Purkey – south of Route 54 (Lighthouse Road) northeast of Swann Drive, being Lot 50 within Swann Keys development. (Tax Map I.D. 5-33-13.13-4.00)

An application for variance from the rear yard setback requirement.

Mrs. Isaacs presented the case. Gil Fleming was sworn in and testified requesting a variance of 1.2 feet from the 10 feet rear yard setback requirement for an existing manufactured home. Mr. Fleming testified that the Board approved a rear yard variance in 2012; that when the unit was placed the survey showed a further encroachment than was approved; that the house was off by a few inches due to the settling of the manufactured house; that the lot is very small; that the difficulty was not created by the Applicant; that the cul-de-sac creates a uniqueness to the lot as the cul-de-sac cuts into the lot; that the variance will enable reasonable use of the Property; that the variance will not alter the essential character of the neighborhood; and that the variance requested is the minimum variance to afford relief.

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 for Variance Application No. 11147 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 lot size;
2. The variance is necessary to enable reasonable use of the Property;
3. The difficulty was not created by the Applicant;
4. The variance will not alter the essential character of the neighborhood; and
5. The variance sought is the minimum variance necessary to afford relief.

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

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

Case No. 11148 – Dennis Reitnauer & Joan Reitnauer – north of Road 22 (Long Neck Road) south of Jasper View Lane, being Lot 43A within Massey's Landing a Mobile Home Park. (Tax Map I.D. 2-34-25.00-31.00-Unit 22863)

An application for a variance from the separation requirement between units in a mobile home park and variances of the side yard and rear yard setback requirements.

Mrs. Isaacs presented the case. Joan Reitnauer and Dennis Reitnauer were sworn in and testified requesting a variance of 7 feet from the 20 feet separation requirement from a shed on Lot 42A, a variance of 11.9 feet from the 20 feet separation requirement from a shed on Lot 44A, a variance of 3.8 feet from the 5 feet side yard setback requirement for an existing shed, and a variance of 3.5 feet from the 5 feet rear yard setback requirement for an existing shed.

Joan Reitnauer testified that the Applicants purchased the unit in 2004; that the Applicants want to replace the unit; that the unit is compliant with the side yard setback requirements but does not meet the separation between units setbacks; that their neighbors have placed sheds near the property line; that the location of neighbors' sheds do not allow the proposed unit to meet the separation requirement; that the variances will enable reasonable use of the Property; that the difficulty was not created by the Applicants because they did not place the sheds on the neighboring properties; that the proposed unit will be in the same footprint as the existing unit; that the variances will not alter the character of the neighborhood; that the variances will not be detrimental to the public welfare; that the variances are the minimum variances necessary to afford relief; and that the Applicants will move their shed into compliance and will not need the variances requested for the shed.

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. 11148 for the requested separation between units variances based on the record made at the public hearing and for the following reasons:

1. The Property is an angled lot which makes it unique;
2. The variances are necessary to enable reasonable use of the Property;
3. The difficulty was not created by the Applicants;
4. The variances will not alter the character of the neighborhood; and
5. The variances sought are the minimum variances necessary to afford relief.

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

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

OLD BUSINESS

Case No. 11133 – Lisa Ambrose – north of Route 54 (Lighthouse Road) west of Swann Drive, being Lot 31 within Swann Keys development. (Tax Map I.D. 5-33-12.16-519.00)

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

The Board discussed the case which has been tabled since January 7, 2013.

Mr. Rickard stated that he would move that the Board recommend denial of Variance Application No. 11133 for the requested variance based on the record made at the public hearing since it can be otherwise developed and the difficulty is being created by the Applicant.

Motion by Mr. Rickard, seconded by Mr. Mills, and carried unanimously that the variance be **denied 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. 11137 – J & Y Parker Family L.P. – northeast of Route 113 (DuPont Boulevard) west of Road 83 (Mitchell Road)(A thru lot). (Tax Map I.D. 2-33-5.00-98.00)

An application for a special use exception to place a billboard and variances from the required square footage, maximum height requirement, and the required setback from a dwelling.

The Board discussed the case which has been tabled since January 7, 2013. Mr. Mills stated that he believes the billboard will not substantially affect adversely the uses of neighboring and adjacent properties but that the Applicant has failed to meet the standards for granting a variance.

Mr. Rickard stated that he believes that the Applicant has created the hardship. Mr. Workman, Mr. Callaway, and Mr. Mills agreed with Mr. Rickard. Mr. Rickard also stated that he has a problem with the double-sided billboard.

Mr. Rickard stated that he would move that the Board recommend approval in part and denial in part of Special Use Exception/Variance Application No. 11137. Mr. Rickard moved that the requested special use exception to place a billboard be approved based upon the record made at the public hearing because the use does not substantially affect adversely the uses of the adjacent and neighboring properties.

As part of his Motion, Mr. Rickard moved that the Board deny the requested variances for the proposed billboard since the difficulty has been created by the Applicant and the Applicant has otherwise failed to meet the standards for granting a variance.

Motion by Mr. Rickard, seconded by Mr. Mills, and carried unanimously that **the special use exception be granted for the reasons stated and that the requested variances for the proposed billboard be denied.** 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.

OTHER BUSINESS

Case No. 10908 – Gumboro Volunteer Fire Co. Inc. – west of Route 26 (Millsboro Highway) north of Road 424 (Pear Tree Road). (Tax Map I.D. 3-33-11.00-19.00, 20.00 & 23.00)

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

Request for a time extension.

Mrs. Isaacs read a letter from the Applicant requesting a one (1) year time extension.

Motion by Mr. Hudson, seconded by Mr. Mills, and carried unanimously that the request for a time extension be **granted for a period of one (1) year.** Motion carried 5 – 0.

Case No. 11091 – David Elliot – north of Road 475 (Sycamore Road) approximately 258.43 feet west of Road 476A (Dukes Lumber Road). (Tax Map I.D. 2-32-8.00-14.05)

An application for a variance from the minimum acreage requirement for an on farm manufactured home.

Request for a new hearing.

Mrs. Isaacs read a letter from the Applicant requesting a new hearing.

Motion by Mr. Workman, seconded by Mr. Hudson, and carried unanimously that the request for a new hearing be **granted**. Motion carried 5 – 0.

Meeting Adjourned 10:40 p.m.