

MINUTES OF JULY 21, 2014

The regular meeting of the Sussex County Board of Adjustment was held on Monday, July 21, 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. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Revised Agenda with the removal of the Executive Session under Other Business. Motion carried 5 – 0.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously to approve the Minutes and Finding of Facts for June 2, 2014 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. 11417 – Kathleen A. Verano – northwest of Road 283A (Ward Road) and being southwest of Cedarwood Lane and being more specifically Lot 2 Beachwoods II Subdivision. (911 Address: 33048 Cedarwood Lane, Lewes, Delaware) (Tax Map I.D. 3-34-11.00-106.00)

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 correspondence in support of or in opposition to the Application.

Kathleen Verano was sworn in to testify about the Application. Kenneth Feaster, Esquire, presented the case to the Board on behalf of the Applicant and submitted a revised survey showing the correct address.

Ms. Verano testified that she is the owner of the Property and that she is requesting a variance of 2.5 feet from the ten (10) feet rear yard setback requirement for an existing porch; that the Applicant purchased the Property on October 25, 1997; that she hired a licensed builder to construct the dwelling in 2001 and that she hired a contractor in 2004 to build an enclosed porch on the rear of the dwelling; that the builders obtained building permits; that Certificates of Compliance was issued for the dwelling and the porch; that on April 26, 2014, she entered an Agreement of Sale to sell the Property; that a survey completed for settlement showed the encroachment into the rear yard setback area; that she was unaware of the encroachments prior to the survey; that the porch and dwelling are located on permanent foundations; that the existing

shed has been moved into compliance with the Sussex County Zoning Code; that the porch addition is a permanent structure and would have to be demolished to comply; that the dimensions of the lot and existing location of the dwelling create a unique circumstance; that the Applicant faces exceptional practical difficulty if made to demolish the existing porch addition; that the variance is necessary to enable reasonable use of the Property; that the circumstances which led to the need for the variance are unique; that she cannot bring the structures into compliance with the Sussex County Code without demolishing the shed; that the difficulty was not created by the Applicant; that she hired a contractor to construct the porch; that a location survey in 2001 was used to determine the location of the property lines; that the porch does not alter the character of the neighborhood since the porch has been a part of the Property since 2006; that neighbors were not aware of the encroachment until recently; that the use is not detrimental to the public welfare; that the request is the minimum variance necessary to afford relief; that the variance would be the least modification possible of the regulation in issue; and that the neighbors have no objection to the Application.

The Board found that three (3) parties 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. 11417 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The Property is unique due to its shape and the proximity to the cul-de-sac;
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 sought is the minimum variance to afford relief; and
6. The variance represents the least modification of the regulation at issue.

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

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

Case No. 11418 – Timothy L. Hutchins and Tina L. Hutchins – north of Route 54 (Lighthouse Road) and being southeast of Pintail Drive, 300 feet northeast of Swann Drive and being Lot 7 Block I Section B within Swann Keys Subdivision. (911 Address: 36492 Pintail Drive, Selbyville, Delaware) (Tax Map I.D. 5-33-12.16-61.00)

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

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

Ray Tomasetti, Esquire, was sworn in to testify about the Application. Richard Gull, Esquire, was present on behalf of the Applicants who were unable to attend the public hearing.

Mr. Tomasetti testified that the Applicant is requesting a variance of 4.2 feet from the ten (10) feet front yard setback requirement for an existing dwelling, a variance of 0.4 feet from the ten (10) feet south side yard setback requirement for existing steps, a variance of 2.4 feet from the ten (10) feet south side yard setback requirement for a detached shed, a variance of 5.2 feet from the ten (10) feet north side yard setback requirement for an existing ground level deck, a variance of 4.2 feet from the ten (10) feet south side yard setback requirement for an existing deck, a variance of 4.2 feet from the ten (10) feet north side yard setback requirement for an existing porch, a variance of 3.3 feet from the five (5) feet north side yard setback requirement for an existing detached shed, a variance of 9.8 feet from the ten (10) feet north side yard setback requirement for an existing set of steps, a variance of 4.5 feet from the ten (10) feet north side yard setback requirement for an existing dwelling, and a variance of 4.2 feet from the ten (10) feet rear yard setback requirement for a dwelling.

Mr. Gull stated that the Applicants have moved out of the area and that he represents the Applicants and is available to answer any questions on their behalf.

Mr. Tomasetti submitted pictures for the Board to review. Mr. Tomasetti testified that the dwelling was placed on the Property in July 1989 by a prior owner; that two (2) years later the Property was sold; that the Applicants purchased the Property in November 2004; that the Applicants were unaware of any encroachments at the time of purchase; that the Applicants purchased the Property with cash and were not required to obtain a survey at that time; that the Applicants are now selling the Property and the survey completed for settlement showed the encroachments; that the Applicants did not make any changes to the Property since ownership in 2004; that there is no record of building permits for the improvements other than the dwelling; that the other improvements were made between 1991 and 2004; and that the neighbor's shed is very close to the property line.

Mr. Lank advised the Board that the rear yard variance for the existing dwelling as noted on the Application is not necessary because the Property extends into the lagoon and that the variance from the north side yard setback requirement for a deck is not necessary.

Mr. Tomasetti testified that the Applicants made no improvements to the Property and that the improvements existed at the time they purchased the Property; that the difficulty was not created by the Applicants; that the variances will not alter the essential character of the neighborhood as the improvements have been in their current location for many years; that the variances are the minimum variances to afford relief; and that the lot is unique in size.

Edward Tribull was sworn in and testified in support of the Application and testified that he has no objection to the Application; that he does have concerns about existing concrete pads that encroach over the lot line and are on his lot; that he purchased his lot in 1992 and the concrete already existed at that time; and that he is concerned that this could hinder the sale of his property in the future.

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

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

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

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 approval in part and denial in part of Variance Application No. 11418 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The Property is unique in size and circumstances;
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 Applicants;
5. The variances will not alter the essential character of the neighborhood; and
6. The variances sought are the minimum variances necessary to afford relief.

As part of his Motion, Mr. Rickard moved that the Board deny the rear yard variance for the existing dwelling as noted on the Application because the variance is not necessary as the Property extends into the lagoon and that the variance from the north side yard setback requirement for a deck be denied because it is not necessary.

Motion by Mr. Rickard, seconded by Mr. Mills, and carried unanimously that the variances be **granted for the reasons stated except for the two (2) variances noted which were not needed**. 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. 11419 – Paul A. King and Gladys D. King – southwest of Route 54 (Lighthouse Road) and being northeast of Taft Avenue and being Lot 2 Block 2 within Cape Windsor Subdivision (911 Address: 38816 Taft Avenue, Selbyville, Delaware) (Tax Map I.D. 5-33-20.18-170.00)

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

Paul King and Gladys King were sworn in to testify about the Application. Raymond Tomasetti, Esquire, presented the case to the Board on behalf of the Applicant and submitted pictures for the Board to review.

Mr. Tomasetti stated that the Applicants were requesting a variance of three (3) feet from the ten (10) feet side yard setback requirement for a proposed dwelling on both sides of the property and a variance of 8.5 feet from the forty (40) feet front yard setback requirement for a proposed dwelling; that the Applicants want to replace the existing manufactured home with a modular dwelling; that the location of old Route 54 makes the lot a through lot; that the Property is oddly shaped and has unique dimensions; that the Property abuts to a canal; that a similar variance was granted for the neighbor's dwelling; that the variances will not alter the essential character of the neighborhood; that mobile homes in the neighborhood are being replaced by dwellings similar to the one proposed by the Applicants; that the variances requested represent the least modifications of the regulations at issue; and that the difficulty was not created by the Applicants.

Mr. & Mrs. King, under oath, confirmed the statements made by Mr. Tomasetti.

Mr. King testified that the proposed dwelling will be similar to a dwelling on adjacent property; that the proposed three story modular dwelling will be approximately 900-square-feet on each floor; and that there will be adequate parking.

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.

Mr. Mills stated that he would move that the Board recommend approval of Variance Application No. 11419 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The size and shape of the Property are unique and the proximity to Route 54 is unique;
2. The variances are necessary to enable reasonable use of the Property;
3. The difficulty was not created by the Applicants;
4. The use will not be detrimental to the public welfare;
5. The variances will not alter the essential character of the neighborhood; 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. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, Mr. Mills – yea, and Mr. Callaway – yea.

Case No. 11420 – Gerald W. Hocker and Emily W. Hocker – southeast corner of the intersection of Route 17 (Roxana Road) and Route 26 (Atlantic Avenue). (911 Address: None Available) (Tax Map I.D. 1-34-12.00-330.01)

An application for a special use exception to place a manufactured home type structure for business, commercial use, and for a variance from the front yard setback requirement.

Mr. Lank presented the case and stated that the Office of Planning and Zoning had not received any correspondence in opposition to the Application and received one (1) letter in support of the Application.

Gerald Hocker, Jr., was sworn in to testify about the Application. David Hutt, Esquire, presented the case to the Board on behalf of the Applicants and submitted exhibits for the Board to review.

Mr. Hutt stated that the Applicants are requesting a special use exception to place a manufactured home type structure for business, commercial use and for a variance of 49.1 feet from the sixty (60) feet front yard setback requirement for a manufactured home type structure; that the Property is located on the corner of Roxana Road and Atlantic Avenue and is the location of the Hocker Super Center; that the Property consists of 9.6 acres and is zoned commercial; that commercial zoning surrounds the Property; that the proposed structure is a vendor trailer for Hockers's BBQ; that the commercial property has an existing grocery store, pharmacy, car wash and gas station; that the vendor trailer is used for their catering business as well as sales on the Property; that the Applicants were approved on March 27, 2014 by the Planning and Zoning Commission, and were approved by the Sussex County Council on May 20, 2014 for a Conditional

Use to operate the business on the Property; that conditions of the approval are that the use is limited to a take-out sales vendor, a maximum of three (3) picnic tables are allowed, the use is limited to a seasonal use from April 1 through November 1 each year from 11:00 a.m. to 8:00 p.m., that security lighting for the site not be directed off the site, and that the Applicants obtain site plan approval from the Planning & Zoning Commission; that the Applicants are required to obtain approvals from the Delaware Department of Transportation (“DelDOT”), the Fire Marshal, and the Department of Public Health; that DelDOT has issued a letter of no objection for the project; that the Department of Public Health has issued a permit for the use; that existing curbing on the Property makes the location of the BBQ stand ideal as it protects the stand and patrons from parking lot traffic; that the location of the vendor trailer is in the least used (safest) portion of the parking lot and keeps all traffic and patrons of the vendor trailer out of the main flow of the parking lot; that there is no food cooked in the vendor trailer; that the location of the trailer does not adversely affect the surrounding businesses; that the number of commercial businesses make the Property unique; that the location of the vendor trailer gives the property owner reasonable use of the Property; that the vendor trailer will be stored off site during the off season; that the difficulty was not created by the Applicants; that the design of the parking lot limits the placement of the trailer; that the use will not alter the essential character of the neighborhood; that the use will not be detrimental to the public welfare; that the variance is the minimum variance necessary to afford relief; that the only access to the vendor trailer is from the parking lot; that they have designated parking spaces for patrons; and that the Applicants are seeking a five (5) year approval from the Board.

Mr. Hocker, under oath, confirmed the statements made by Mr. Hutt. Mr. Hocker testified that the trailer will be removed from the Property after November 1 each year.

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 Application No. 11420 for the requested special use exception based on the record made at the public hearing because the use does not substantially affect adversely the uses of adjacent and neighboring properties.

Motion by Mr. Mills, seconded by Mr. Rickard, and carried unanimously that the special use exception be **granted for a period of five (5) years and 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.

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11420 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The existing use of the Property makes the Property unique;
2. The variance is necessary 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 requested represents the least modification of the regulation at issue.

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

Case No. 11421 – Loretta M. Bemederfer, formerly known as Loretta M. Broomer – northeast of Route 5 (Oak Orchard Road) aka Road 297 and being northwest of Mercer Avenue, 220 feet northeast of Paul Street. (911 Address: 33277 Mercer Avenue, Millsboro, Delaware) (Tax Map I.D. 2-34-35.05-93.00)

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.

Kim Broomer was sworn in to testify about the Application. Norman Barnett, Esquire, presented the case to the Board on behalf of the Applicant.

Mr. Barnett stated that the Applicant is requesting a variance of 17.8 feet from the thirty (30) feet front yard setback requirement and a variance of 3.9 feet from the ten (10) feet side yard setback requirement for an existing dwelling. Ms. Broomer testified that she is the Applicant's daughter and has power of attorney for the Applicant; that the Property is under a contract for sale pending the Board's decision; that the Applicant purchased the Property in 1979; and that the location of the dwelling has not changed since the Applicant purchased the Property.

Mr. Barnett stated that the dwelling was built prior to the enactment of the Sussex County Zoning Code and is a non-conforming use; that the previous owner added onto the existing dwelling in 1977 after obtaining a building permit; that there was no survey completed at that time; that the Applicant obtained a building permit in 1991 to replace an existing deck; and that a Certificate of Compliance was issued for the deck.

Ms. Broomer testified that the Applicant cannot purchase additional property to bring the Property into compliance with the Sussex County Zoning Code; that it would be a hardship to bring the Property into compliance; that the Property cannot be sold in its current condition; that

the variances will not alter the character of the neighborhood; that the use will not be detrimental to the public welfare; that the variances are the minimum variances to afford relief; and that the variances represent the least modifications of the regulations at issue.

Ms. Broomer, under oath, confirmed the statements made by Mr. Barnett.

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. 11421 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 only fifty (50) feet wide and has a non-conforming dwelling;
2. The variances are necessary to enable reasonable use of the Property;
3. The difficulty was not created by the Applicant;
4. The variances will not alter the essential character of the neighborhood; and
5. The variances sought are the minimum variances necessary to afford relief.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the 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. 11422 – The Bay House, LLC c/o Kelly DeMaio, Trustee – south Road 277 (Angola Road) and being west of Oak Street, 120 feet south of Oak Street West and being Lot 40 Block C within Angola-By-The-Bay Subdivision. (911 Address: 23528 Oak Street E, Millsboro, Delaware) (Tax Map I.D. 2-34-17.08-190.00)

An application for variances from the front yard and rear 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 the Application. Mr. Lank read a letter from Audrey Sensale regarding her concerns of the Applicant's intent for the Property.

James DeMaio was sworn in to testify about the Application. Norman Barnett, Esquire, presented the case to the Board on behalf of the Applicant.

Mr. Barnett stated that the Applicant is requesting a variance of 5.6 feet from the thirty (30) feet front yard setback requirement for an existing pergola and porch and a variance of 10.1 feet from the twenty (20) feet rear yard setback requirement for an existing second floor deck.

Mr. DeMaio testified that the Applicant purchased the Property in May 2014; and that the Property is for personal use and will not be rented.

Mr. Barnett submitted a copy of a letter from the Angola by the Bay Property Owners Association which demonstrates that the Association does not object to the Application.

Mr. DeMaio testified that the second floor deck existed when the previous owner purchased the Property in 1992; that the previous owner replaced the second floor deck and constructed the porch and overhang in 1992; that the previous owner was unaware of any encroachments; that there have been no complaints from neighbors; that the variances will not alter the character of the neighborhood; that the difficulty was not created by the Applicant; that the use is not detrimental to the public welfare; that the rear yard is adjacent to the common area in the development; and that the variance is the minimum variance to afford relief.

Mr. DeMaio, under oath, confirmed the statements made by Mr. Barnett.

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. 11422 for the requested variance based on the record made at the public hearing and for the reasons stated:

1. The cul-de-sac and angled rear yard property line make the Property unique in shape;
2. The variances are necessary to enable reasonable use of the Property;
3. The difficulty was not created by the Applicant;
4. The variances will not alter the essential character of the neighborhood;
5. The variances sought are the minimum variances necessary to afford relief; and
6. The variances represent the least modification 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. 11423 – Bruce S. Casher – south of Route 54 (Lighthouse Road) and being southwest of Wilson Avenue, 325 feet east of Lincoln Drive and being Lot 28 Block 3 within Cape Windsor Subdivision. (911 Address: 38792 Wilson Avenue, Selbyville, Delaware) (Tax Map I.D. 5-33-20.18-134.00)

An application for variances from the side yard and rear 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.

Bruce Casher and JoAnn Greene were sworn in to testify about the Application. James Fuqua, Esquire, presented the case to the Board on behalf of the Applicants and submitted exhibits for the Board to review.

Mr. Fuqua stated that the Applicants are requesting a variance of five (5) feet from the ten (10) feet north side yard setback requirement for a proposed dwelling, a variance of 8.2 feet from the ten (10) feet north side yard setback requirement for proposed HVAC, and a variance of ten (10) feet from the twenty (20) feet rear yard setback requirement for a proposed porch with steps; that the Property is located in the Cape Windsor development and is owned by Bruce Casher and JoAnn Greene; that the lot measures 50 feet wide by 84.2 feet deep; that the Property borders on a lagoon in the rear yard; that Cape Windsor was originally developed as a manufactured home community making for unique setback requirements; that the character of the neighborhood is to replace the old manufactured homes with larger, modern dwellings; that the Applicants intend to place a larger, modern dwelling on the Property; that the existing dwelling will be demolished; that the existing dwelling is 14.1 feet from the rear property line; that the deck attached to the existing dwelling is eight (8) feet from the property line; that the existing dwelling is 4.6 feet from the side yard property line; that the steps for the existing dwelling are only one (1) foot from the side yard property line; that the HVAC for the existing dwelling is only 1.5 feet from the side yard property line; that the variance request is similar to the variance requests approved by the Board for a neighbor; that the proposed setbacks are consistent with the setbacks on neighboring properties; that the proposed dwelling is less intrusive into the setback areas than the existing dwelling and structures; that there have been numerous variances granted in the neighborhood; that the variances enable reasonable use of the Property; that the proposed location of the dwelling will leave adequate space to park and to gain access to the boat dock at the rear of the Property; that the difficulty has not been created by the Applicants; that the proposed dwelling is in character of the neighborhood and will be an improvement; that the proposed dwelling will not alter the character of the neighborhood; and that the variances are the minimum variances to afford relief.

Mr. Casher and Ms. Greene, under oath, affirmed the statements made by Mr. Fuqua.

Mr. Fuqua stated that the depth of the lot limits the buildable area; that the adjacent street is narrow; that a boat dock is located on the lagoon; that the location of the proposed dwelling gives adequate space in the front yard for parking; that it would be a practical difficulty to build in compliance with the Sussex County Zoning Code; that the Applicants are proposing a reasonable use of the Property; and that the character of the neighborhood has changed since it was originally developed.

Kerry Wertz was sworn in and testified in support of the Application and testified that he lives on Wilson Avenue; that Wilson Avenue is only twenty (20) feet wide; and that the proposed location of the dwelling will allow for off street parking which is essential.

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. 11423 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The size of the Property makes it unique;
2. The variances are necessary to enable reasonable use of the Property;
3. The difficulty was not created by the Applicant;
4. The variances will allow the dwelling to be placed in a location that will allow for more parking on the Property;
5. The variances will not alter the essential character of the neighborhood;
6. The variances sought are the minimum variances necessary to afford relief; and
7. The variances represent the least modification 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. 11424 – Joseph Baker – north of Route 54 (Lighthouse Road) 1,112 feet west of Route 389 (Dickerson Road). (911 Address: 33053 Lighthouse Road, Selbyville, Delaware) (Tax Map I.D. 5-33-18.00-12.00)

An application for a special use exception to retain a commercial dog kennel.

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.

Joseph Baker was sworn in and testified requesting a special use exception for a period of five (5) years to retain a commercial dog kennel; that this is his sixth time in front of the Board; that he has been in business for twenty-five (25) years; that there have been no changes made to the dog kennel since his last approval; that there have been no changes in the neighborhood; that neighboring property is agricultural; that all dogs are inside for the night by 9:00 p.m.; that he lives on the Property and cannot hear the dogs once they are inside the kennel; that the dogs are out

during the hours of 7:00 a.m. and 9:00 p.m.; that they have visiting hours from 10:00 a.m. to 4:00 p.m. to allow vacationers to visit their boarded pets; that there are eighteen (18) runs; that there have been no complaints from the neighbors; that the use does not substantially affect adversely the uses of adjacent and neighboring properties; and that the business generates approximately six (6) to eight (8) cars per day on average.

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. 11424 for the requested special use exception for a period of five (5) years based on the record made at the public hearing because the use does not substantially affect adversely the uses of adjacent and neighboring properties.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the special use exception be **granted for a period of five (5) years 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. 11425 – 30894 Heather Lane, LLC – east of Route One (Coastal Highway) and being east of Heather Lane and along Atlantic Ocean and being Lot 10 within Bethany Dunes Subdivision. (911 Address: 30984 Heather Lane, Bethany Beach, Delaware) (Tax Map I.D. 1-34-9.00-424.00)

An application for a variance from the front 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.

Greg Hasting was sworn in and testified requesting a variance of 2.3 feet from the thirty (30) feet front yard setback requirement for a proposed addition to allow for an interior elevator; that the existing dwelling is thirty-eight (38) years old; that the Applicant's owner needs an elevator in order to be able to access all three floors of the dwelling; that the Applicant has investigated options of how to install the elevator in the dwelling; that the existing bathrooms have to be reconfigured and expanded to allow for an elevator to be placed within the interior of the dwelling; that the Architectural Review Committee has approved the proposed plan; that one of the owners of the Applicant is elderly and has drop foot; that the difficulty has not been created by the Applicant; that the variance is necessary to enable reasonable use of the Property; that the variance will not alter the character of the neighborhood; and that the appearance of the roofline will not change.

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. 11425 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The need for an elevator creates a unique circumstance;
2. The Applicant needs the variance in order to continue living in the dwelling;
3. The variance is necessary to enable reasonable use of the Property;
4. The difficulty was not created by the Applicant;
5. The variance will not alter the essential character of the neighborhood; and
6. The variance sought is the minimum variance necessary to afford relief.

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

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

Case No. 11426 – Jack Dillon, Sr., and Eileen Dillon – east of Route One (Coastal Highway) and being southwest of Bunting Avenue and Virginia Avenue and being Lot 4 Section C of lands of L.P. Faucett Subdivision in the unincorporated area near Fenwick Island. (911 Address: None Available) (Tax Map I.D. 1-34-23.20-107.00)

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 the Application. Mr. Lank read one (1) letter of opposition into the record.

Greg Hastings was sworn in and testified requesting a variance of four (4) feet from the ten (10) feet side yard setback requirement for a proposed elevator; that the proposed elevator will provide access to all four (4) floors of the existing dwelling; that the Applicants retained him to design an elevator for the dwelling; that the dwelling is uniquely designed due to its many angles; that the dwelling is on pilings; that the proposed elevator is being placed strategically within an angled wall; that the proposed elevator extends into the side yard setback area; that the terrain between the proposed elevator addition and the neighbor's property would not be accessible by fire equipment; that the dwelling is located adjacent to sand dunes in Fenwick Island; that the dwelling is approximately twenty-five (25) years old; that the design of the house and its numerous angles present logistical problems in designing for the elevator; that the proposed placement of the elevator works with the angles of the dwelling and will also work aesthetically; that the elevator shaft will have a roof that will be integrated with the existing roof of the dwelling; that the proposed

elevator will not adversely affect the neighboring and adjacent properties; that the existing floor plan will not allow for an interior elevator; that the mechanics for the elevator will be at the top of the elevator shaft; that the Applicant is elderly and has a handicapped son; that the elevator is needed to reach the upper floors of the dwelling; and that there is no other place where the elevator could be placed. Mr. Hastings submitted exhibits for the Board to review.

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. 11426 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The unique design of the existing dwelling creates a unique circumstance;
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; and
5. The variance sought is the minimum variance necessary to afford relief.

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

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

OTHER BUSINESS

Executive Session – Withdrawn

REORGANIZATION

Mr. Callaway appointed Mr. Lank as Acting Chairman for the purpose of holding an Election of Officers.

Mr. Lank opened nominations for Chairman.

Motion by Mr. Rickard and seconded by Mr. Mills, to nominate Mr. Callaway as Chairman.

Motion by Mr. Workman and seconded by Mr. Hudson that the nominations for Chairman be closed.

Motion was adopted to nominate Mr. Callaway as Chairman with 5 – 0 vote.

Voted for Mr. Callaway, as Chairman, by roll call:

Mr. Workman – yea
Mr. Rickard - yea
Mr. Hudson - yea
Mr. Mills - yea
Mr. Callaway - yea

Mr. Lank opened the nominations for Vice-Chairman.

Motion by Mr. Workman and seconded by Mr. Hudson to nominate Mr. Mills for Vice-Chairman.

Motion by Mr. Hudson and seconded by Mr. Workman that the nominations for Vice-Chairman be closed.

Motion was adopted to nominate Mr. Mills as Vice-Chairman with 5 – 0 vote.

Vote for Mr. Mills, as Vice-Chairman, by roll call:

Mr. Workman – yea
Mr. Rickard - yea
Mr. Hudson - yea
Mr. Mills - yea
Mr. Callaway - yea

The meeting was turned over to Mr. Callaway, the re-elected Chairman.

Motion was made by Mr. Mills and seconded by Mr. Workman to appoint Mr. Lawrence Lank as Secretary to the Board, with 5 – 0 vote.

Vote for Mr. Lank, as Secretary to the Board, by roll call:

Mr. Workman – yea
Mr. Rickard - yea
Mr. Hudson - yea
Mr. Mills - yea
Mr. Callaway - yea

Meeting Adjourned 9:25 p.m.