

## MINUTES OF JUNE 19, 2017

The regular meeting of the Sussex County Board of Adjustment was held on Monday, June 19, 2017, at 7:00 p.m. in the County Council Chambers, 2 The Circle, Georgetown, Delaware.

The meeting was called to order at 7:00 p.m. with Chairman Dale Callaway presiding. The Board members present were: Mr. Dale Callaway, Ms. Ellen Magee, Mr. John Mills, Mr. Norman Rickard, and Mr. Brent Workman. Also in attendance were Mr. James Sharp – Assistant County Attorney, Mr. Vince Robertson – Assistant County Attorney, and staff members Ms. Janelle Cornwell – Director of Planning and Zoning, Mrs. Jennifer Walls – Planning Manager, and Ms. Christin Headley – Recording Secretary.

The Pledge of Allegiance was led by Mr. Callaway.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously to move Case No. 11962 to the beginning of Old Business and approve the Revised Agenda as circulated and amended. Motion carried 4 – 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. 11962 – Jill Cicierski & June Cicierski** - seek a variance from the height requirement for fences, a special use exception to operate a commercial dog kennel, and a special use exception for a garage / studio apartment (Section 115-23 and 115-185 of the Sussex County Zoning Code). The property is located on the northeast side of Gravel Hill Road (Route 30) approximately 754 feet southwest of intersection of Gravel Hill Road (Route 30) and Neptune Road (SCR 251). 911 Address: 16808 Gravel Hill Road, Milton. Zoning District: AR-1. Tax Map No.: 2-35-25.00-4.10.

Ms. Cornwell presented the case which has been tabled since May 15, 2017.

Mr. Sharp advised the Board that his firm had a potential conflict of interest and that Mr. Robertson was present to represent the Board during the hearing. Mr. Sharp left the Council Chambers.

There was no discussion on the case as the Board was ready to vote.

Ms. Magee was not present at the May 15, 2017, hearing so she abstained from the discussion and vote.

Mr. Workman was absent from voting on the first three motions.

Mr. Rickard moved that the special use exception for a garage studio apartment be approved based on the record made during the public hearing and for the following reasons:

1. The garage apartment is located in an outbuilding on the 3.2-acre property. Its outward appearance is not substantially different from the several outbuildings that exist on neighboring and adjacent properties.
2. The proposed garage apartment is set back several hundred feet from the front of the Property, and it is also at least 200 feet from the nearest property of other ownership to the north of the property. On the west, the garage apartment is at least 100 feet from property of other ownership.
3. The only opposition to the applications for this property concerned the dog kennel. The primary objections were based upon noise generated by the dogs. No parties testified or presented evidence in opposition to the garage apartment.
4. There was no evidence in the record that the proposed garage will substantially adversely affect the uses of adjacent and neighboring properties.

Motion by Mr. Rickard, seconded by Mr. Mills that the special use exception be **granted for the reasons stated**. Motion carried 3 – 0.

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

Mr. Rickard moved that the special use exception to operate a commercial dog kennel be approved based on the record made during the public hearing and for the following reasons:

1. The applicant testified that the kennel will be located on their 3.2-acre parcel that is zoned AR-1 Agricultural Residential.
2. The dog kennel will be located within an existing building on the Property, and the outdoor area is completely fenced with solid fencing all around it. The dogs and kennel area will not be visible from neighboring properties or roadways.
3. The Applicants stated that each litter of puppies will usually only be kept on the property for 7-8 weeks before they are sold. Also, there will only be puppies on the Property for 21-24 weeks out of each year.
4. The Applicants stated that they intend to construct their own home on the Property, and the proposed location of the home is shown on the site plan submitted with the Application. This will enable the Applicants to have direct control over the kennel operation and address any minor noise issues that may come from barking dogs at the kennel.
5. The use as a kennel is consistent with other agricultural uses that are permitted on properties in this area. This includes horses that are kept on a neighboring property. This use is appropriate in a rural, agricultural area such as this, where homes are situated on tracts of land of an acre or more. In most cases, the surrounding properties are 2 or 3 acres in size.

6. The proposed kennel is set back several hundred feet from the front of the Property, and the dog runs are also at least 200 feet from the nearest property of other ownership to the north of the property and the kennel building is further away. On the west, the kennel is at least 100 feet from property of other ownership.
7. There is no clear evidence that the use of the Property as a kennel will have a substantial, adverse effect on the uses of neighboring or adjacent properties. There was not credible testimony that the use will have an adverse impact upon property values, or specific credible examples that the use will impair the use of surrounding properties.

Motion by Mr. Rickard, seconded by Mr. Mills that the special use exception be **granted for the reasons stated**. Motion carried 3 – 0.

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

Mr. Rickard moved that the variance of 2 feet from the 3.5-foot height requirement for the fence in the front yard be approved based upon the record made during the public hearing and for the following reasons:

1. The need for the variance is based upon the uniqueness of the Property. Like the other properties in the area, this is a large lot with the buildings set back more than 200 feet from the front boundary line. This variance from the fence height requirement is necessary to utilize the front area of the Property with a sufficient enclosure.
2. The front yard of the AR-1 zoned property cannot otherwise be developed with a conforming 3.5-foot-high fence that will keep horses within the pasture area and keep the public from the horses.
3. The need for this variance was not created by the Applicant. The large front yard areas are common to properties along Gravel Hill Road.
4. The variance will not alter the essential character of the neighborhood. The front yard variance will be consistent with other pasture fences in the neighborhood, and it will not block any views on Gravel Hill Road at intersections or curves on the road.
5. This variance is the minimum variance that will afford relief and it represents the least modification of the regulation at issue. The variance is the minimum necessary to keep horses safely enclosed within the pasture.
6. The primary opposition to the Applications for this property concerned the dog kennel. The objections were mainly based upon noise generated by the dogs. No parties testified or presented evidence in opposition to this fence variance.
7. There is not sufficient evidence in the record to support a denial of this variance application.

Motion by Mr. Rickard, seconded by Mr. Mills that the variance be **granted for the reasons stated**. Motion carried 3 – 0.

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

Mr. Rickard moved that the variance of 1 foot from the 7-foot height requirement for the fence around the dog run be approved based upon the record made during the public hearing and for the following reasons:

1. The need for the variance is based upon the uniqueness of the Property. The property's topography is irregular, and in several places the ground level falls away from the fence.
2. The Property cannot be otherwise developed with a conforming 7-foot-high fence that is necessary for the dog run. Because of the irregular ground level, a legal 7-foot-high fence would go up and down depending on the way the ground rises and dips. This would not be uniform, and would be detrimental in appearance to the Applicant's property as well as the nearby property owners.
3. The need for this variance was not created by the Applicant. The variation of a couple inches here and there across the length of the fence is due to the irregular ground level, which was not created by the Applicant.
4. The variance will not alter the essential character of the neighborhood. This fencing will not be visible from the street and it does not adversely impact neighboring properties or views. The fence is also set back at least 200 feet from the properties of other ownership.
5. This variance is the minimum variance that will afford relief and it represents the least modification of the regulation issue. The variance eliminates the minor encroachments over the 7-foot height limit that occur in places over the course of the entire fence line. It also allows for minor changes in measurement in the event of erosion or other changes in topography under the fence.
6. The primary opposition to the Applications for this property concerned the dog kennel. The objections were mainly based upon noise generated by the dogs. No parties testified or presented evidence in opposition to this fence variance.

Motion by Mr. Rickard, seconded by Mr. Mills that the variance be **granted for the reasons stated**. Motion carried 4 – 0.

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

Mr. Sharp returned and Mr. Robertson left the Council Chambers.

**Case No. 11961 – Faith United Methodist Church Inc.** - seeks a special use exception to operate a

Homeless Shelter (Section 115-23 of the Sussex County Zoning Code). The property is located on the southeast corner of Lewes-Georgetown Highway (Route 9 / 404) at the intersection with Church Street. 911 Address: 19940 Church Street, Lewes. Zoning District: AR-1. Tax Map No.: 3-34-5.00-215.00.

Ms. Cornwell presented the case which has been tabled since May 15, 2017.

There was no discussion on the case as the Board was ready to vote.

Ms. Magee was not present at the May 15, 2017, hearing so she abstained from the discussion and vote.

Mr. Mills moved that the special use exception to operate a Homeless Shelter be approved based on the record made during the public hearing and for the following reasons:

1. The Applicant proposed a homeless shelter for 18 to 24 homeless persons on a site formerly used as a church on property located in Belltown near the Five Points intersection at the corner of Church Street and Route 9.
2. The Board heard opposition to the Application, many of whom were residents of the nearby Henlopen Landing development. The primary concerns raised by the opposition included the vetting process of shelter residents, the effect of the shelter on property values, traffic, and safety in the area. The opposition's evidence, testimony, and concerns have been weighed and considered.
3. The opposition expressed concern about residents who suffer from mental illness or drug and alcohol addiction. The facility will be an alcohol and drug-free facility. To the extent residents suffer from drug or alcohol addiction, they will be required to attend addiction counseling and maintain sobriety. As noted at the beginning of the hearing, the Board cannot consider testimony or evidence which stereotype people within a protected class – including persons with a disability.
4. Property Values:
  - a. Glenn Piper, who is a real estate appraiser with 24 years of experience in Sussex County, testified that the proposed shelter would have no adverse effect on the values of neighboring properties. Mr. Piper also explained that existing traffic congestion and blighted homes in Belltown already depress property values in the area. Members of the opposition admitted that traffic in the area is a problem. One member of the opposition also noted that the area was “not good looking”.
  - b. I find that the testimony and report submitted by Mr. Piper to be credible and persuasive and I give Mr. Piper's testimony and report great weight.
  - c. After weighing the testimony and evidence, I find that the homeless shelter will not have a substantial adverse effect on property values of neighboring and adjacent

properties.

5. The use of the Homeless Shelter & Safety:

- a. The Applicant has submitted a proposed set of rules and regulations which requires that the residents of the shelter be vetted by the Homeless Planning Council and the HUD system. No registered sex offenders or individuals with a history of violent offences will be permitted to live in the shelter. All residents will be finger-printed and vetted by the Delaware State Police Troop 7 to determine whether they have outstanding warrants or capiases. The Applicant will have an intake policy and admissions criteria. The shelter is not a walk-up facility and all persons who reside in the shelter must go through the admissions and vetting process prior to admission to the house. House rules will also be implemented and enforced. No drugs, alcohol, or weapons permitted. Residents are not permitted to loiter in the area and must engage in counseling and job training. Residents must also seek employment. The shelter will be supervised and residents who do not follow rules will be removed from the shelter.
- b. I am satisfied that the admissions criteria and process and the rules of the shelter will provide sufficient safeguards for the neighborhood.

6. Traffic:

- a. Route 9 and Beaver Dam Road are frequently traveled roads and the area is a high-traffic area.
- b. A DART bus stop is located on the corner of Stingey Lane and Route 9. The DART bus stop is within reasonable walking distance to the proposed shelter. Many of the residents will likely walk or bike to the bus stop in order to get to work and appointments. The close proximity of the shelter to a bus stop should alleviate some of the concerns about the traffic from the shelter as residents will not have to go far in order to access reasonable transportation. I also note that there is a school bus stop in the Henlopen Landing development. The existence of the school bus stops indicates that pedestrian traffic in the area is not unusual. I also note that the DART bus stop is located in the opposite direction from Henlopen Landing and Salt Marsh Boulevard where neighbors have experienced traffic problems.
- c. The Property has been used as a church for many years and is zoned AR-1 which allows for certain uses. No evidence was presented which proved convincing that the shelter would produce any more traffic – pedestrian or otherwise – than the previous church on the Property or another permitted use within the AR-1 district. It is also noted that the Property was previously granted Conditional Use approval for a restaurant with a brew pub.
- d. DelDOT has jurisdiction over the traffic impact of the shelter and indicated that the use does not require a traffic impact study and that the traffic impact from the shelter would be “negligible”.

- e. Ultimately, I am convinced that the homeless shelter will not have a substantial adverse effect on traffic in the area.
7. The Neighborhood:
    - a. The area near the proposed homeless shelter consists of different uses. The residential communities of Henlopen Landing and Lewes Landing, 2 hardware stores, a park-and-ride facility, a power station, and other businesses are located near the site. The Property is also only a few blocks from the Route 1 corridor.
    - b. The evidence demonstrates that the proposed homeless shelter is an ideal location for the Applicant based on criteria needed for state funding. The shelter is located in a highly impacted area within close proximity to transportation, groceries, fire, and police. The shelter is located close to a bus stop which should enable residents to access transportation for work or appointments.
    - c. With regard to the impact of the shelter on nearby properties, the Board heard testimony that a homeless shelter in Seaford, with less resident controls than is proposed in the present application, was located near the Seaford Christian Academy and no incidents have been reported. In fact, the shelter and the Seaford Christian Academy engaged in joint activities and enjoy a harmonious relationship.
    - d. It is also worth noting that conflicting testimony and evidence was presented as to whether homeless persons live in Belltown. While it is disputed as to whether homeless persons live in this neighborhood, it was clear from the testimony that there are likely homeless persons in the Lewes area. The Applicant has operated a Code Purple shelter nearby which benefits homeless persons during winter months.
  8. Lighting:
    - a. There was no evidence that there would be additional light pollution or negative effects from lighting from the proposed shelter.
  9. Noise:
    - a. There was no evidence that there would be additional noise pollution or loud noises emanating from the proposed shelter.
  10. Emissions:
    - a. There was no evidence that there would be additional pollutants or negative environmental emissions from the proposed shelter.
  11. Based on the record, the Applicant has demonstrated that the proposed use set forth in the application will not substantially affect adversely the uses of neighboring and adjacent properties. For these reasons, I move to approve the Application.

Motion by Mr. Mills, seconded by Mr. Rickard, and carried that the special use exception be

**granted for the reasons stated.** Motion carried 3 – 1.

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

**Case No. 11963 – Edward C. Jackson & Ruth G. Jackson** - seek a variance from the front yard setback (Section 115-34 of the Sussex County Zoning Code). The property is located on the north side of Beach Avenue approximately 644 feet east of Coastal Highway (Route 1). 911 Address: 17 Beach Avenue, Rehoboth Beach. Zoning District: MR. Tax Map No.: 3-34-23.06-72.00.

Mrs. Walls presented the case which has been tabled since June 5, 2017.

The Board discussed the case.

Ms. Magee stated that she has some concerns about the Application; that the difficulty was created in 2014 when the Applicants purchased the Property because the house encroached into the setback area at that time; that other properties along the street have received variances; that the variances will not alter the essential character of the neighborhood; and that she believes the difficulty related to the additions may be created by the Applicants.

Mr. Rickard stated that he agrees with Ms. Magee and that the request appears to be a want and not a need.

Mr. Workman stated that he agrees with the other Board members.

Ms. Magee asked if a first-floor entrance, which would be more accommodating to the Applicants' elderly parents, is still possible without a variance.

Mr. Mills asked if averaging the setback was an option in this case.

Mr. Sharp advised the Board that averaging the setback is not an option because the dwelling is preexisting; that the dwelling encroached into the front yard setback area when the Applicants purchased the home; and that the Board could consider, as one option, approving a variance for the dwelling only but not for the addition.

Ms. Magee stated that the difficulty pertaining to the existing dwelling was not created by the Applicants because the dwelling existed on the Property when they purchased the Property; and that she has concerns about the variances for the proposed additions.

Mr. Mills stated that, with the averaging, the proposed addition will still be less encroaching than the neighboring dwellings.

The Board was then ready to take a vote.



Ms. Magee moved to approve Variance Application No. 11963 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The Property is unique;
2. The variance is necessary to enable reasonable use of the Property;
3. The exceptional practical difficulty was not created by the Applicants;
4. The variance will not alter the essential character of the neighborhood, and;
5. The variance requested is the minimum variance necessary to afford relief.

Motion by Ms. Magee, seconded by Mr. Mills that the variance be **approved for the reasons stated**. Motion carried 4 – 1.

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

**Case No. 11965 – James D. Sherlock & Jennifer A. Sherlock** - seek a variance from the rear yard setback (Section 115-25 and 115-183 of the Sussex County Zoning Code). The property is located on the northeast side of Linden Drive approximately 568 feet east of Sycamore Drive, Angola By the Bay. 911 Address: 22923 Linden Drive, Lewes. Zoning District: AR-1. Tax Map No.: 2-34-11.16-50.00.

Mrs. Walls presented the case which has been tabled since June 5, 2017.

The Board discussed the case.

Ms. Magee stated that the difficulty is being created by the Applicants; that the Property can otherwise be developed; and that the variance requested is not the minimum variance necessary to afford relief.

Motion by Ms. Magee, seconded by Mr. Mills that the variance be **denied for the reasons stated**. Motion carried 4 – 1.

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

### **PUBLIC HEARINGS**

**Case No. 11969 – Sterling Crossing Condominium Association, Inc.** - seeks a community-wide variance from the separation requirement between buildings (Section 115-188 of the Sussex County Zoning Code). The property is located at Old Landing Road (Route 274) approximately 374 feet southwest of Airport Road. 911 Address: Cobalt Way, Rehoboth Beach. Zoning District: AR-1. Tax Map No.: 3-34-12.00-123.02.

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

Ms. Magee advised the Board that she has a conflict of interest and recused herself from the public hearing.

Dr. Curtis Whitehair was sworn in to testify about the Application. David Hutt, Esquire, presented the case on behalf of the Applicant and submitted exhibits for the Board to review.

Mr. Hutt stated that the Applicant is requesting a community wide variance from the separation requirement between units to reduce the separation requirement from 40 feet to 20 feet; that Sterling Crossing is a condominium association located along Old Landing Road; that the surrounding area consists of properties in multiple zoning districts; that the final site plan was approved for 140 units and recorded in 2006; that not all of the units have been built; that the Sussex County Zoning Code requires a separation distance of 40 feet between buildings in a condominium; that a community wide variance is being sought to apply to all units as unit owners may want to add decks or three season rooms to their units; that the goal is to reduce the number of variance requests; that the homeowners association has received a large amount of applications to make additions to units; that a community wide variance would allow for a more uniform approach to additions in the community; that there are existing decks in the community; that, rather than the Board of Adjustment receiving variance applications, all applications requesting additions will go to the homeowners association; that fire safety has been considered; that the State Fire Marshal has no objection to the variance request; and that fire hydrants are located throughout the community.

Dr. Whitehair, under oath, affirmed the statements made by Mr. Hutt.

Dr. Whitehair testified that the homeowners association's architectural review board has reviewed the proposed request; that the proposed patios and three seasons rooms would match the front porch; that the community has vetted the proposal; that there are 24 units left to be constructed; that the community is transitioning from builder-control to owner-control; that the Applicant is looking to maintain and improve the community; that screen porches will reduce the risk of mosquito-borne diseases; that some units are three steps above grade which limits the ability of some residents from using outdoor patio space; and that the aging population will not be able to use steps down to patios.

Mr. Hutt stated that some units are not suited for ground level patios; that the Property is unique because it is used as a condominium / townhouse community with varying separation distances between buildings; that each building has its own unique footprint; that the Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code while providing uniformity in the community; that the variance is necessary to avoid multiple variance requests filed by units; that the exceptional practical difficulty was not created by the Applicant; that the variance will not alter the essential character of the neighborhood because variance will provide for a more uniform appearance in the neighborhood; and that a 20 feet separation distance is the minimum variance that will afford relief.

Dr. Whitehair testified that the homeowners can build a deck, porch, or patio; that the homeowners association allows a 20 feet separation requirement; and that the homeowners

association prohibits two-story additions.

Mr. Hutt stated that the condominium falls under the Unit Property Act; and that all additions would be within the limited common elements for each individual unit within the condominium.

The Board found that thirteen (13) parties appeared in support of the Application.

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

Mr. Rickard moved to approve Variance Application No. 11969 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 use;
2. The Property cannot be developed in strict conformity with the Sussex County Zoning Code;
3. The exceptional practical difficulty was not created by the Applicant;
4. The variance will not alter the essential character of the neighborhood; and
5. The variance requested is the minimum variance 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 4 – 0.

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

**Case No. 11970 – James Coleman & Robin Coleman** - seek variances from the separation requirement between units (Section 115-172 of the Sussex County Zoning Code). The property is located at the north side of Fisherman Road approximately 110 feet southwest of Seafarer Road. 911 Address: 35287 Fisherman's Road, Millsboro. Zoning District: AR-1. Tax Map No.: 2-34-30.00-6.00-Unit 44573.

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning received one (1) letter in support of the Application and no correspondence in opposition to the Application.

Ms. Magee advised the Board that she has a conflict of interest and recused herself from the public hearing.

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

Mr. Hutt stated that the Applicants are requesting a variance of 2.2 feet from the twenty (20) feet separation requirement from a unit to the west and a variance of 0.2 feet from the twenty (20) feet separation requirement from a unit to the east; that the Property is located in the White House Beach Mobile Home Park and is identified as Lot 89; that a new home was placed on the Property in the same footprint of the old home; that the new home is 17.8 feet from the dwelling to the west (Lot 88); that the new home is 19.8 feet from the dwelling to the east (Lot 90); that the Property is oddly shaped;

that the front property line is 92.28 feet wide and the rear property line is 24.89 feet wide; that the normal minimum lot width for a manufactured home lot is 50 feet; that White House Beach submitted a letter in September 2016 approving the placement of the home; that the community manager is the neighbor on Lot 88; that the community manager wrote the letter of support; that the fence surrounding Lot 88 hid the existing deck located thereon; that the Property is unique due to its trapezoidal shape and narrow rear width; that the building envelope has a unique shape; that the variances are necessary to enable the reasonable use of the Property; that the exceptional practical difficulty was not created by the Applicants; that White House Beach has existed for nearly 50 years; that the variances will not alter the essential character of the neighborhood; that the dwelling is similar to other dwellings in the area; that the dwelling was placed in the exact same location as the previous dwelling that was replaced; and that the variances requested are the minimum variances necessary to afford relief.

Mr. Class, under oath, affirmed the statements made by Mr. Hutt.

Mr. Class testified that he learned of the need for the variances when he tried to acquire a certificate of occupancy for the home and he was notified that the dwelling did not meet the separation distance requirements; that a certificate of occupancy has not yet been issued and only will be issued if the variances are approved; that Property meets the 35% lot coverage regulation; that the home was placed on the Property in November 2016; and that the prior home was placed on the lot in 1978.

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

Mr. Rickard moved to approve Variance Application No. 11970 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 its shape;
2. There is no possibility the Property can be developed in strict conformity with the Sussex County Zoning Code;
3. The exceptional practical difficulty was not created by the Applicants;
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 4 – 0.

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

**Case No. 11971 – Patricia A. Barthelmess** - seeks variances from the minimum lot size requirement (Section 115-34 of the Sussex County Zoning Code). The property is located at the east side of Lagoon Lane approximately 150 feet southeast of Bay Haven Road. 911 Address: 37735 Lagoon Lane, Ocean View. Zoning District: MR. Tax Map No.: 1-34-8.00-140.04 & 140.05.

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning received

no correspondence in support of the application and five (5) letters in opposition to the Application.

Ms. Magee advised the Board that she has a conflict of interest and is recusing herself from the public hearing.

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

Mr. Hutt stated that the Applicant is requesting a variance of 1,172 square feet from the 10,000 square feet minimum lot size requirement for Proposed Lot 1, a variance of 1,153 square feet from the 10,000 square feet minimum lot size requirement for Proposed Lot 2, a variance of 929 square feet from the 10,000 square feet minimum lot size requirement for Proposed Lot 3, and a variance of 1,500 square feet from the 10,000 square feet minimum lot size requirement for Proposed Lot 4; that the Property consists of two adjacent lots identified as Parcels 140.04 and 140.05; that the Applicant proposes to subdivide the two (2) parcels into four (4) lots; that, in 2002, Mrs. Barthelmeß became the sole owner of both properties through a deed; that Parcel 140.04 is improved by a structure with three (3) apartment units; that Parcel 140.05 is a vacant parcel; that the minimum lot area is 10,000 square feet and the minimum road frontage requirement is 75 feet; that the proposed lots will meet the road frontage requirement but do not meet the square footage requirement; that the proposed lots will be larger than the lots across Lagoon Lane; that the neighboring lots consist of approximately 5,000 square feet; that the Applicant does not propose to construct townhouses on the lots; that the Applicant has two (2) children and three (3) grandchildren; that the Applicant owns another property; that the Applicant plans to bequeath the five (5) lots to her children and grandchildren with each beneficiary receiving one (1) lot; that the area is susceptible to tidal flooding; that the number of units on the Property will have no impact on the tidal flooding; that the Applicant must comply with the Sussex County parking requirements; that the Applicant's representative contacted Sussex County and learned that the sewer system has adequate sewer capacity to accommodate those lots; that the Applicant originally sought to create five (5) lots but revised her plans after speaking with her neighbors; that the original five (5) lot proposal including lots which were close in size to the lots across the street; that the minimum road frontage in an MR district is 75 feet; that the Property is shallow which prevents the Property from meeting the lot size requirement; that the variances are necessary to enable the reasonable use of the Property; that the exceptional practical difficulty was not created by the Applicant; that the original subdivision plots in the area date back to the 1950s or 1960s; that the neighboring lots have varying sizes and shapes; that the variances will not alter the essential character of the neighborhood; that the proposed subdivision would provide a transition from the smaller lots in the community to the larger lots nearby; that the adjacent neighbors support the Application and even supported a five (5) lot subdivision; and that the variances requested are the minimum variances necessary to afford relief.

Mrs. Barthelmeß, under oath, affirmed the statements made by Mr. Hutt.

Mr. Hutt stated that the Sussex Conservation District will address drainage of these lots; that the Rogers Haven development is located across the street; that most of the lots in Rogers Haven are 50 feet wide; and that the existing structure with apartments will remain on Parcel 140.04.

Mrs. Barthelme testified that the apartment structure has been there for at least 40 years.

Ms. Cornwell stated that staff would need to research the existing apartments to determine how they were approved; and that the subdivision may need approval from the Planning & Zoning Commission.

Sarah Powell was sworn in to testify in opposition to the Application. Ms. Powell testified that she has lived on Lagoon Lane for eight (8) years; that her lot is across the street from the Property and is on higher ground; that the Property is a low-lying property with a tidal ditch; that the tidal water flows onto other lots; that additional fill dirt and driveway pipes could jeopardize the drainage; that, if approved, four new driveway pipes would need to be installed for drainage; that the variances will adversely affect her lot by pushing water over onto her property; that her home was built in 1969; that other neighboring homes are larger homes; that the proposed subdivision could adversely affect neighboring property values; that the neighborhood uses well water; that she is concerned with overdevelopment of the area; that she is a civil engineer at the Delaware Department of Transportation (“DelDOT”); that additional entrances to the road from the subdivision would threaten the integrity of the road; that ten (10) vehicle trips per day per household is an average; that she would not object to a subdivision of three (3) lots if the subdivision met the Sussex County Zoning Code; that she supports a reasonable development of the Property provided the development complies with the Code; that the area floods from rainwater and tidal water but most of the flooding comes from tidal waters; that she questions where the hardship exists; and that the only hardship is that the Applicant has a certain number of beneficiaries to whom she wishes to bequeath land.

Eileen Barnhard was sworn in to testify in opposition to the Application. Ms. Barnhard testified that she believes the Property can be developed without a variance; that the Applicant seeks higher density; that the parcels across Lagoon Lane were developed in 1963; that the Applicant purchased the Property in 1982; that the neighboring lots contiguous to the Property are 10,000 square feet; that the Applicant’s request is a want not a need; that there is no uniqueness to the Property; that the Property can be subdivided within code requirements; and that this request is not an estate plan issue.

Dr. Patricia Riola was sworn in to testify in opposition to the Application. Dr. Riola testified that the Property can otherwise be developed; that the area is susceptible to flooding when it rains at high tide; that neighboring homes were built in the 1950s and 1960s; and that there is no promise as to what will happen in future development.

Constance Bond was sworn in to testify in opposition to the Application. Ms. Bond testified that she is the adjacent neighbor on parcel 140 to the rear of the Applicant’s lots; that she has lived there for 20 years; that Rogers Haven is a charming area; that many lots in the area are larger than 1 acre; that the neighboring lots which consist of 5,000 square feet line the only canal in the area and those lots would not be allowed to be created today; that the proposed subdivision increases density in the area and would set a precedent for future new lots in the area; that the neighborhood would be degraded by the proposed subdivision; that, if the Application is approved, her property will have three (3) backyards sharing her property line; and that she is not satisfied that the Applicant is showing a hardship exists.

Douglas Scott was sworn in to testify in opposition to the Application. Mr. Scott presented a PowerPoint presentation and testified that his father lives across the street; that the drainage ditch along the road drains to the bay; that there are flooding problems in the area; that he is concerned about the drainage as the ditch provides a way for the water to flow; that new driveways would go over the ditch; that the ditch is maintained by the residents that live along the road; and that the drainage of water is his main concern.

Mr. Hutt stated that the ditch is not a tax ditch and that storm water management was not regulated when the neighboring properties were developed.

Ms. Cornwell advised the Board that a variance of 1,500 square feet would be needed for Proposed Parcel 4 since it is used as multi-family structure.

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

The Board found that twelve (12) parties appeared in opposition to the Application.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the case be **tabled until July 10, 2017**, with the case being left open in order to give staff time to research the age of the existing Apartment Building. Motion carried 4 – 0.

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

The Board took a five-minute recess.

**Case No. 11972 – D & A Brittingham Family Limited Partnership** - seeks a special use exception to place a billboard (Sections 115-80, 115-81, 115-159.5, and 115-210 of the Sussex County Zoning Code). The property is located at the east side of Coastal Highway (Route 1) northbound at Broadkill Road (Route 16). 911 Address: Not Available. Zoning District: C-1. Tax Map No.: 2-35-8.00-83.00.

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

Ms. Magee advised the Board that she has a conflict of interest and is recusing herself from the public hearing.

Chris Kalie was sworn in to testify about the Application. David Hutt, Esquire, presented the case on behalf of the Applicant and submitted exhibits for the Board to review.

Mr. Hutt stated that the Applicant is requesting a special use exception to place a billboard; that the Property is located at the corner of Route 1 and Route 16 (Broadkill Road); that the Property is adjacent to the Rookery Golf Course; that the Property is surrounded by roads on three (3) sides; that the Property is currently being used as farmland; that the billboard will comply with all setback,

separation distance, size, and height requirements; that no variances will be needed; that the Property is uniquely shaped; that a letter of no objection was acquired from the Delaware Department of Transportation (“DelDOT”); that the billboard will measure 12 feet by 48 feet and will be 35 feet tall; that the proposed billboard will be a static billboard and will not use LED features; that DelDOT has plans to improve the Route 1 / Route 16 intersection; that the use will not substantially affect adversely neighboring and adjoining properties; that the Property is not immediately adjacent to any residential property; that the Property is located to the west of a fully developed golf course; that the proposed billboard will be more than 300 feet from the nearest dwelling; and that the dwellings on the north side will be acquired by DelDOT.

Mr. Kalie, under oath, affirmed the statements made by Mr. Hutt.

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

Mr. Rickard moved to approve Special Use Exception Application No. 11972 for the requested special use exception on the record made at the public hearing and because the use will not substantially adversely affect the uses of the neighboring properties.

Motion by Mr. Rickard, seconded by Mr. Mills, and carried unanimously that the special use exception be **granted for the reasons stated**. Motion carried 4 – 0.

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

**Case No. 11973 – Jeffery Martini & Jacqueline Martini** - seek a variance from the rear yard setback requirement (Sections 115-42 and 115-183 of the Sussex County Zoning Code). The property is located at the south side of Canal Street approximately 600 feet west of Erie Avenue. 911 Address: 38335 Canal Street, Ocean View. Zoning District: GR. Tax Map No.: 1-34-13.00-1175.00-73.

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

Chad Carter, Jeff Martini, and Jacqueline Martini were sworn and testified requesting a variance of 9 feet from the ten (10) feet rear yard setback requirement for a proposed deck addition.

Mr. Carter testified that he is the Applicants’ surveyor from Solutions IPEM; that the State of Delaware owns the parcel in the rear for maintenance of the nearby canal; that the Property is irregularly shaped; that the existing deck was cut off at a 45 degree angle due to the irregularity of the Property; that the deck suffers from airflow circulation problems and does not match the other decks in the area; that the neighboring properties extend to the centerline of the lagoon and do not have these setback issues; that the neighboring properties have decks which are similar to the proposed deck; that the existing dock extends past the Property where the location of the deck is being proposed; that the variance will not alter the essential character of the neighborhood; and that the variance requested is the minimum variance necessary to afford relief.



Mr. Martini testified that he proposes to square off the deck; that the existing deck has an odd angle; that the odd angle of the deck effects the space available to use on the deck as well as the access to and from the deck; that there is no neighbor on the east side of the Property; that the oddly shaped deck would affect property values in the area; that the Army Corps of Engineers controls the maintenance line which runs parallel to the canal; that a portion of the house also had to be cut off to accommodate the Army Corps of Engineers; and that, at first, they were unaware of the issues with the deck.

Mr. Carter testified that the Army Corps of Engineers approved the dock; and that large equipment accesses the canal.

Mr. Martini testified that the canal has been recently dredged; that the deck is different from other decks in the neighborhood; that their dwelling is one of the first to be built in the neighborhood and that they have a different use of their deck compared to others in the neighborhood.

Mr. Carter testified that the proposed deck will not impact the maintenance parcel.

Mr. Martini testified that the angle of the deck effects the use of the deck; that the proposed deck will only be on the first floor; that they own a premium lot since it is located on the end; that there are no other lots shaped like this in the neighborhood; and that the Applicants are able to use the deck but the angle cuts off a significant amount of the usable space of the deck.

Mr. Carter testified that the difficulty was created by the builder, Schell Brothers, or the engineers; and that the Applicants were unaware of the unique angle of the Property when they entered into a contract to purchase the Property.

Mrs. Martini testified that the west side is a common area.

Doug Purcell was sworn in to testify in support of the Application. Mr. Purcell testified that the homeowners association unanimously supports the proposed deck addition; that there are a total of 87 lots in the community; and that 52 units have been built and all of the units and all of the proposed units, except for the Applicants' unit, have square decks.

Graham Lake was sworn in to testify in support of the Application. Mr. Lake testified that he is the neighbor of the Applicants; that the Property is an awkwardly shaped property; and that the Applicants' deck is less than half the size of the other decks in the neighborhood.

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.

Ms. Magee moved to approve Variance Application No. 11973 for the requested variances based on the record made at the public hearing and for the reasons that the request meets the standards for granting a variance.

Motion by Ms. Magee, 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, Ms. Magee – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

**Case No. 11974 – Eugene D. Smith** - seeks a variance from the minimum lot width requirement (Section 115-25 of the Sussex County Zoning Code). The property is located on the west side of Sapp Road (Route 208) approximately 308 feet southeast of Cedar Beach Road (Route 36). 911 Address: 20474 Sapp Road, Milford. Zoning District: AR-1. Tax Map No.: 3-30-7.00-55.00.

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

Robert Nash was sworn in and testified requesting a variance of 97.87 feet from the 150 feet lot width requirement for proposed Parcel A and a variance of 5.39 feet from the 150 feet lot width requirement for the proposed Residual Parcel.

Mr. Nash testified that the proposed subdivision is to create a lot for the Applicant's son; that the Applicant's other son owns the adjacent property; that there is no available road frontage to subdivide the Property; that a 50 feet easement with 100 feet road frontage is the only option of subdividing the parcel; that the parcel is large enough to subdivide but cannot be subdivided without a variance; that the Applicant lives nearby; that the exceptional practical difficulty has not been created by the Applicant; that the variances will not alter the essential character of the neighborhood; that the area is agricultural and residential with large lots; that the variances represent the least modification possible of the regulations at issue; and that DelDOT has approved the entrance.

Ms. Cornwell clarified that two variances are needed to meet the minimum road frontage requirements.

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.

Ms. Magee moved to approve Variance Application No. 11974 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The Property is unique;
2. There is no possibility the Property can be developed in strict conformity with the Sussex County zoning ordinance;
3. The exceptional practical difficulty was not created by the Applicants;
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 Ms. Magee, 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. Rickard – yea, Ms. Magee – yea, Mr. Mills – yea, and Mr. Callaway – yea.

**Case No. 11978 – Steven Conway** - seeks variances from the front yard setback requirement (Sections 115-42 and 115-182 of the Sussex County Zoning Code). The property is located at the northeast side of Chippewa Avenue approximately 570 feet north of North Avenue. 911 Address: 28339 Chippewa Avenue, Millsboro. Zoning District: GR. Tax Map No.: 2-34-34.00-81.00-6694.

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

Steven Conway was sworn in and testified requesting a variance of 8.2 feet from the thirty (30) feet front yard setback requirement and a variance of 7.6 feet from the thirty (30) feet front yard setback requirement for a covered porch. Mr. Conway submitted a letter supporting the Application.

Mr. Conway testified that he seeks approval for a roof over his deck; that the dwelling was built in the 1970s; that the neighboring homes have recently been renovated; that the roof improves the appearance of the home while providing cover during inclement weather; that the covered deck will not alter the essential character of the neighborhood; that his neighbors support the addition of a roof over the front deck; that he had difficulty locating the property marker; that there are similar enclosed decks in the neighborhood; that the deck with a roof was built in 2014 and a permit was obtained; that he planned to install a new shed to replace a shed that was damaged in a storm and the need for a variance for the deck was discovered at that time; that the exceptional practical difficulty was not created by the Applicant; that he is seeking to improve his home; that the roof enhances the appearance of the home; that the deck will not be screened; that his deck was constructed by a contractor; that the roof exists over the deck and he does not ask to expand that roof or to enclose the deck; that he believed that the deck was properly set back from the front property line; that the edge of Chippewa Avenue does not match the edge of paving; that there is approximately 14 feet from the front property line to Chippewa Avenue; that the property marker was hidden under a shrub; that, at the time the roof was constructed over the deck, he believed the roof and deck complied with the front yard setback requirement; and that the Property is serviced by sewer and not a septic system.

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

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the case be **tabled until July 10, 2017**. Motion carried 5 – 0.

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

**Case No. 11979 – Paul Licciardello** - seeks variances from the front yard, side yard, and rear yard setback requirements (Sections 115-25, 115-183, and 115-185 of the Sussex County Zoning Code). The property is located at the northwest side of Bridgeway Drive East approximately 291 feet

southwest of Woodland Circle. 911 Address: 32761 Bridgeway Drive East, Lewes. Zoning District: AR-1. Tax Map No.: 2-34-11.20-210.00.

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning received one (1) letter in support of the Application and no correspondence in opposition to the Application.

Paul Licciardello and Mario Licciardello were sworn in and testified requesting a variance of 8.3 feet from the ten (10) feet side yard setback requirement on the northwest side for an existing ramp, a variance of 3.0 feet from the ten (10) feet side yard setback requirement on the northeast side for an existing dwelling, a variance of 3.6 feet from the ten (10) feet side yard setback requirement on the southeast side for an existing dwelling, a variance of 6.7 feet from the thirty (30) feet front yard setback requirement for an existing dwelling, a variance of 7.8 feet from the twenty (20) feet rear yard setback requirement for an existing dwelling, a variance of 3.3 feet from the five (5) feet rear yard setback requirement for an existing shed, and a variance of 3.8 feet from the five (5) feet rear yard setback requirement for an existing shed.

Paul Licciardello submitted exhibits for the Board to review and testified that he is the executor of his father's estate; that his father passed away in October 2016; that the Property is located in the Angola by the Bay development; that he has made no additions to the improvements on the Property since his father passed away; that he acquired ownership of the Property after his father passed away; that the Rubbermaid sheds identified as "boxes" on the survey are being removed; that the original structure on the Property was a manufactured home; that his father obtained permits for an addition to the dwelling in 1992 or 1993; that the manufactured home was on the Property when his father purchased the Property; that the dwelling is comparable to others in the neighborhood; that the home is a Class C structure with a permanent foundation; that he spoke with a realtor when beginning the process to list the Property for sale and discovered the setback issues at that time; that the existing ramp was added in 2008 for use by his mother who was suffering from cancer at the time; that his father received approval from the community for the ramp; that he has not received complaints from neighbors; that the shed cannot be moved into compliance; that the front property line does not match the edge of paving of East Bridgeway Drive; and that the front yard appears larger than it actually is.

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

Mr. Rickard moved to approve Variance Application No. 11979 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 its size;
2. The variances are necessary to enable reasonable use of the Property;
3. The exceptional practical difficulty was not created by the Applicants;
4. The variances will not alter the essential character of the neighborhood; and
5. The variances sought are the minimum variances necessary to afford relief.

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

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

**Case No. 11980 – Pentecostal Church of God of Lincoln, Inc.** - seeks variances from the side yard setback requirement and a special use exception to use a manufactured home type structure for an office (Sections 115-23, 115-25, and 115-210 of the Sussex County Zoning Code). The property is located at the northeast side of Bethesda Road (Route 326) approximately 1,580 feet south of Doe Bridge Lane. 911 Address: 27071 Bethesda Road, Millsboro. Zoning District: AR-1. Tax Map No.: 1-33-11.00-40.01.

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

Medford Freshwater was sworn in and testified requesting a special use exception to use a manufactured home type structure as an office, a variance of 5.05 feet from the fifteen (15) side yard setback requirement on the southeast side for a proposed addition, a variance of 5.35 feet from the fifteen (15) feet side yard setback requirement on the southeast side for a proposed addition, and a variance of 0.86 feet from the fifteen (15) feet side yard setback requirement on the northwest side for an existing structure.

Ms. Cornwell advised the Board that the structure on the northwest side of the Property does not need a variance because the structure consists of less than 600 square feet.

Mr. Freshwater testified that the structure on the northwest side of the Property measures 24 feet by 20 feet; that the church is seeking to make additions to make the church handicap accessible; that the church has handicapped members; that the Applicant received a permit for the manufactured home; that the manufactured home is used for Sunday School classes and meetings; that the manufactured home has been on the Property since the 1990s; that the Applicant has not received complaints from neighbors about the manufactured home; that there are homes in the area; that a tax ditch runs along the northwest border of the Property; that the Applicant's neighbor does not oppose the Application; that the Property is unique because of its shape and the location of the tax ditch; that the handicap ramp cannot be built elsewhere; that the handicap ramp is necessary to enable reasonable use of the Property; that the exceptional practical difficulty was created by the uniqueness of the Property; that the ramp will not alter the essential character of the neighborhood; that the variances are the minimum variances necessary to afford relief; that the Property slopes toward the tax ditch; and that the rear of the Property consists of unbuildable wetlands.

The Board found that six (6) parties appeared in support of the Application.

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

Mr. Rickard moved to approve Variance / Special Use Exception Application No. 11980 for the requested special use exception and variances based on the record made at the public hearing and for the following reasons:

1. The Property is unique due to its size;
2. The variances are necessary to enable reasonable use of the Property;
3. The exceptional practical 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 use will not substantially adversely affect the uses of the neighboring properties.

Motion by Mr. Rickard, seconded by Ms. Magee, and carried unanimously that the variances and special use exception be **granted for the reasons stated**. Motion carried 5 – 0.

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

**Case No. 11981 – CMF Tidewater Landing, LLC** - seeks a special use exception to use a manufactured home type structure as an office (Sections 115-23 and 115-210 of the Sussex County Zoning Code). The property is located at the northeast side of Robinsonville Road (Route 277) approximately 3,000 feet northwest of Webb’s Landing Road. 911 Address: Robinsonville Road, Lewes. Zoning District: AR-1. Tax Map No.: 2-34-6.00-975.00.

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

Rich Grissum and Timothy Green were sworn in and testified requesting a special use exception to use a manufactured home type structure as an office.

Mr. Grissum testified that he is the director of construction and land development for Carl Freeman Companies; and that the Applicant seeks the special use exception for a trailer to be used at Tidewater Landing near Lewes, Delaware.

Mr. Green testified that Tidewater Landing consists of 195 single family home sites; that site improvements on the first phase are underway; that the Applicant would like to take advantage of the summer selling season but the Applicant is not far enough along in the development process to construct a model home; that the manufactured home type structure will be used as a temporary sales office and will be located near a construction entrance along Robinsonville Road; that the Applicant seeks the special use exception for a period of one (1) year; that the special use exception will not substantially, adversely affect the uses of neighboring and adjacent properties; that the sales center will have a clean and “beachy” appearance; that the Applicant previously used the manufactured home structure at Solitudes at White Creek for the same use; that the Applicant has renovated the manufactured home; that the sales center will face Robinsonville Road; that flowers, shrubs, and landscaping will be planted around the structure; that wastewater will be collected in a holding tank beneath the structure; that the tank will be pumped on an “as needed” basis; that the parking lot will be lit; that the Applicant will maintain the right-of-way to enhance the curb appeal of the development while under construction; that the Applicant intends to have its model home completed by February 2018, at which time, the manufactured home structure, if approved, will be removed; that the structure

will have a handicap ramp; and that the office will be staffed Monday through Saturday from 10 a.m. until 5 p.m. and Sunday 11 a.m. until 5 p.m.

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

Ms. Magee moved to approve Special Use Exception Application No. 11981 for the requested special use exception for a period of one (1) year based on the record made at the public hearing and because the use will not substantially adversely affect the uses of the neighboring properties.

Motion by Ms. Magee, seconded by Mr. Rickard, and carried unanimously that the special use exception be **granted for a period of one (1) year and for the reasons stated**. Motion carried 5 – 0.

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

**Meeting Adjourned 11:24 p.m.**