

## MINUTES OF MAY 4, 2015

The regular meeting of the Sussex County Board of Adjustment was held on Monday, May 4, 2015, 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 Dale 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 Lawrence Lank – Director of Planning and Zoning, Ms. Janelle Cornwell – Planning and Zoning Manager, and Mrs. Jennifer Norwood – Recording Secretary.

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

Motion by Mr. Mills, seconded by Mr. Rickard, and carried unanimously to approve the Minutes of March 16, 2015 as circulated. Motion carried 5 – 0.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously to approve the Minutes and Finding of Facts for April 6, 2015 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. 11561 – Stacey Lynn Burton & Jacob Adams Fowler** – southwest of Road 241 (Burton Road), approximately 1.38 mile northwest of Road 319 (Sand Hill Road). (911 Address: None Available) (Tax Map I.D. 2-35-19.00-25.16)

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.

Stacey Lynn Burton and Jacob Adams Fowler were sworn in to testify about the Application. Jane Patchell, Esquire, presented the case to the Board on behalf of the Applicants.

Ms. Patchell stated that the Applicants are requesting a variance of 19.7 feet from the forty (40) feet front yard setback requirement for a proposed deck and addition; that the existing dwelling is in poor condition and is located entirely in the front yard setback area; that the dwelling is in need of repair; that the Applicants plan to remodel the existing structure and construct an addition and deck to the rear of the existing dwelling; that portions of the deck and addition will be located in the front yard setback requirement; that the Property was subdivided from a larger property; that the existing dwelling was constructed in approximately 1898 per the Assessment Records which was well before the enactment of the Sussex County Zoning Code; that the

configuration of the dwelling has not changed from the drawing of the dwelling shown on the assessment card; that the Applicants purchased the Property in January 2015; that an existing well, concrete pump house, and septic field prevent the dwelling from being moved into compliance; that the Property is unique because the dwelling was placed on the Property prior to the enactment of the Sussex County Zoning Code; that the existing dwelling is located entirely within the front yard setback requirement and the location of the improvements which support the dwelling prevent the Property from being developed in strict conformity with the Sussex County Zoning Code; that any addition to the dwelling would have to at least partially be located in the front yard setback area; that the variance is necessary to enable reasonable use of the Property; that the exceptional practical difficulty was not created by the Applicants; that the variance will not alter the essential character of the neighborhood because the dwelling has been on the Property for over 100 years; that the Applicants intend to continue using the dwelling as a single family residence; that the proposed addition will enhance the neighborhood; that the use will not be detrimental to the public welfare; that the variance requested is the minimum variance to afford relief; and that the variance represents the least modification of the regulation at issue.

Ms. Burton, under oath, confirmed the statements made by Ms. Patchell.

John Burton was sworn in and testified in support of the Application and testified that the Applicant is his daughter; and that the Property has been in the family for four (4) generations.

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. Mills stated that he would move that the Board recommend approval of Variance Application No. 11561 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The non-conforming dwelling creates a unique circumstance to the Property;
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;
5. The variance will not be detrimental to the public welfare; and
6. The variance sought is the minimum variance necessary to afford relief.

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

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

**Case No. 11562 – Kirsten S. Castano & Karen L. Gloom** – northeast of Road 275 (Plantation Road) and being north of Beech Drive, approximately 325 feet west of Linden Avenue and being more specifically Lot 2 Block R of Sandy Brae Addition No. 2 (911 Address: 34079 Beech Drive, Lewes) (Tax Map I.D. 3-34-6.00-593.00).

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.

Jennifer Barrows was sworn in to testify about the Application. Richard Berl, Esquire presented the case to the Board on behalf of the Applicants.

Mr. Berl stated that the Applicants are requesting a variance of 1.5 feet from the thirty (30) feet front yard setback requirement for an existing dwelling; that the dwelling was built in 1979; that a Certificate of Occupancy was issued for the dwelling; that a survey completed for settlement showed the encroachment; that the previous owner was unaware of the encroachment; that there have been no changes to the existing dwelling; that there are no additions being made to the dwelling; that there is a wooded buffer on the side of the Property most affected by the variance; that the encroachment would likely not be noticeable but for the existence of the survey; and that only one corner of the existing dwelling encroaches. Mr. Berl submitted a picture of the house to the Board to review.

Jennifer Barrows testified that she was the realtor for the Applicants and that the encroachment will not negatively affect the neighboring and adjacent properties.

Todd Lavin was sworn in and testified in support of the Application and testified that he is the current owner; that he purchased the Property approximately two (2) months ago; and that the approval of the variance is very important.

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. 11562 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The existence of the cul-de-sac make the Property 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 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.

**Case No. 11563 – Miriam Snader** – south of Road 277 (Angola Road) and being east of Woodland Circle, approximately 225 feet south of Butternut Court and being more specifically Lot 65 Block A Section 1 within Angola-By-The-Bay Subdivision. (911 Address: None Available) (Tax Map I.D. 2-34-18.05-83.00).

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 or in opposition to the Application.

Sherry Nowicki was sworn in to testify about the Application. Chad Meredith, Esquire, presented the case to the Board on behalf of the Applicant and submitted exhibits for the Board to review.

Mr. Meredith stated that the Applicant is requesting a variance of 3.6 feet from the twenty (20) feet rear yard setback requirement and a variance of one (1) foot from the thirty (30) feet front yard setback requirement for an existing dwelling; that the Applicant purchased the Property in 2004; that the Property is located in Angola by the Bay; that a survey completed in 2004 was approved and recorded; that the 2004 survey showed the encroachments; that there have been no additions to the dwelling which have expanded the setback encroachments; that the Applicant seeks the variance to allow the dwelling to remain in its current location; that there have been no changes to the Property other than the removal of two decks; that a survey completed in 2015 showed the same encroachments; that the dwelling was built in 1981; that the Property is unique since the encroachment has gone unnoticed since 1981; that the exceptional practical difficulty was not created by the Applicant; that Angola by the Bay is largely developed; that other homes in the neighborhood appear to be similarly situated; that the Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code; that the variances will not impair the uses of the neighboring and adjacent properties; that the variances are necessary enable reasonable use of the Property; that portions of the home would have to be torn down in order to bring the dwelling into compliance; that the variances will not alter the essential character of the neighborhood; that the variances will not detrimental to the public welfare; that the variances are the least modifications of the regulations at issue; and that the variances are the minimum variances to afford relief.

Ms. Nowicki testified that she was the listing agent for the Property; that she is familiar with the market in the area; that the variances will not adversely affect the neighboring properties; and that she confirmed the statements made by Mr. Meredith.

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. 11563 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The Property is unique because it is only fifty (50) feet wide;
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; 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. 11564 – JKJ Properties, LLC** – north of Road 207 (Johnson Road) corner east of U.S. Route 113 (DuPont Boulevard) (911 Address: 17959 Johnson Road, Lincoln) (Tax Map I.D. 1-30-6.00-118.00).

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

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

James J. Weller, Jr. was sworn in to testify about the Application. David Hutt, Esquire, presented the case to the Board on behalf of the Applicant.

Mr. Hutt stated that the Applicant is requesting a special use exception to place a manufactured home type structure for a sales trailer and office; that the Property is located at the intersection of Route 113 and Johnson Road near Lincoln; that the Applicant purchased the Property at a sheriff's sale in July 2014; that the Applicant discovered after the purchase that the previous owner had let the existing special use exception expire; that the unit was approved by the Board in 2004 and used as an office for Blue Hen Auto Sales; that the Applicant plans to use the unit for a sales office as well; that the Applicant plans to sell sheds, swing sets, outdoor furniture,

and other outdoor items; that the adjacent properties are all commercially zoned; that an auto salvage business is located across from the Property; that billboards are located on another adjacent property; that the Applicant plans to paint the existing structure; that the use will not substantially adversely affect the uses of the neighboring and adjacent properties; and that the Applicant is seeking approval for five (5) years.

Mr. Weller testified that the unit is in good condition; that there is an existing deck and skirting around the unit; that his neighbors support the Application; and that he affirmed the statements made by Mr. Hutt.

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. Mills stated that he would move that the Board recommend approval of the Special Use Exception Application No. 11564 for the requested special use exception based on the record made at the public hearing because the use does not substantially adversely affect the uses of the neighboring and adjacent properties.

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

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

**Case No. 11565 – Mary Elizabeth Bacevich** – north of Route 54 (Lighthouse Road) and being northwest of Mallard Drive, approximately 232 feet northeast of Swann Drive and being more specifically Lot 74 Block G within Swann Keys Subdivision (911 Address: 36943 Mallard Drive, Selbyville) (Tax Map I.D. 5-33-12.16-72.00).

An application for variances from the 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.

Tom Carney was sworn in to testify about the Application. Raymond Tomasetti, Esquire, presented the case to the Board on behalf of the Applicant and submitted exhibits for the Board to review.

Mr. Tomasetti stated that the Applicant is requesting a variance of 5.2 feet from the ten (10) feet side yard setback requirement for an existing porch and a variance of 0.7 feet from the five (5) feet side yard setback requirement for an existing shed; that the Applicant believed that

the neighbor's fence was located on the property line but the survey shows that it is not; that the previous owner was approved for a variance in 2004 for the existing porch; that the previous owner placed the structures on the Property; that the previous owner was not aware of the encroachments; that a survey completed in 2015 showed the encroachments; that the Property is located in the Swann Keys development; that the small lot makes the Property unique; that the Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code; that the exceptional practical difficulty was not created by the Applicant; that the variances will enable reasonable use of the Property; that the variances will not alter the character of the neighborhood; that the variances are not detrimental to the public welfare; that the variances are the minimum variances necessary to afford relief; that the shed was moved to minimize the variance requests; that a significant portion of the rear yard is in the lagoon, which will not allow enough room for the shed; and that the neighbor and previous owner believed the fence was located on the property line.

Mr. Carney, under oath, affirmed the statements made by Mr. Tomasetti.

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. 11565 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The Property is fifty (50) feet wide;
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; 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. 11566 – Charles Humphreys** – north of Road 341 (Falling Point Road) and being west of Lagoon Road, approximately 1,600 feet north of Dogwood Drive and more specifically Lots 71, 72, and 73 within Dogwood Acres Subdivision (911 Address: None Available) (Tax Map I.D. 1-34-6.00-81.00 and 82.00).

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.

Charles Humphreys and Patricia Humphreys were sworn in and testified requesting a variance of 0.6 feet from the five (5) feet side yard setback requirement and a variance of 0.2 feet from the five (5) feet rear yard setback requirement for an existing accessory building (garage). Mr. Humphreys testified that he purchased Lot 71 in 1997; that Lot 71 had an existing manufactured home and garage at that time; that he hired a contractor to remove the garage and to build a new garage on Lot 71 in 2008; that permits were issued for the construction of the new garage; that a final inspection was never completed by the contractor; that he purchased the adjacent Lot 72 and Lot 73 in 2014; that they plan to combine the lots into one property and build a dwelling; that the survey completed to combine the properties showed the encroachments; that he was not aware of the encroachments prior to the survey being completed; that the Property is slightly angled making it unique; that the garage is on a permanent foundation and cannot be moved into compliance; that the garage has electricity; that the garage has not altered the character of the neighborhood; that the neighbors have had no objection to the garage; that a neighbor has a stockade fence which blocks the view of the garage; that the variances are not detrimental to the public welfare; that the exceptional practical difficulty was not created by the Applicant; that he relied on the contractor (Michael Kern) to build the garage in compliance with the Sussex County Zoning Code; that the variances are the minimum variances necessary to afford relief; and that the variances represent the least modifications of the regulations at issue.

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. 11566 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The irregular shape of the lot makes the Property unique;
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 use will not be detrimental to the public welfare; 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. 11567 – Sports at the Beach** – south of Route 18 (Lewes Georgetown Highway), approximately 2,300 feet west of Route 321 (Park Avenue) (911 Address: 22518 Lewes Georgetown Highway, Georgetown) (Tax Map I.D. 1-35-15.00-82.00).

An application for a special use exception for an outdoor display or promotional activity.

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

Mr. Sharp advised the Board that his firm has represented the Applicant in the past and that if the Board had any questions, they should direct them to Vince Robertson, Esquire.

Pete Townsend was sworn in and testified requesting a special use exception for an outdoor display or promotional activity; that he is seeking a renewal of the original special use exception that was approved five (5) years ago; that an annual Halloween event is held on this property and he seeks approval to continue this use; that the original special use exception included a Christmas light display; that the Christmas light display was never executed and will not be included in this request; that he has received no complaints about the Halloween event; that the annual Halloween event is held for fifteen (15) days during the Halloween season as approved by the State on weekends; that the existing village is used during baseball season from March to November; that the use has not adversely affected the surrounding and adjacent properties; and that he is seeking approval for five (5) years.

Margaret Alves was sworn in and testified that she is concerned about additional signage; that the Property is well-kept; that children play baseball there; and that she has no objection to the Application.

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. 11567 for the requested special use exception based on the record made at the public hearing because the use does not substantially adversely affect the uses of neighboring and adjacent properties.

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

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

**Case No. 11568 – Maureen Horton Gross** – southwest of Road 443 (Parsons Road), approximately 2,000 feet southeast of Road 435 (Bryans Store Road) (911 Address: 19402 Parsons Road, Georgetown) (Tax Map I.D. 1-33-9.00-4.14).

An application for a special use exception for a garage/studio apartment.

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.

Maureen Horton Gross was sworn in and testified requesting a special use exception for a garage/studio apartment; that she purchased the Property in April 2012; that the apartment over the garage existed at time of purchase; that her son lived in the apartment; that she would like to rent the apartment for extra income; that the apartment had a stove at the time she purchased the Property; that the apartment is approximately 790 square-feet in size; that there is adequate parking available for the tenant; that the apartment consists of one (1) bedroom, one (1) bathroom unit, and a kitchenette area; that the neighborhood is primarily residential with 12 homes along the Parsons Road; that the Property is one (1) acre in size; and that the use will not adversely affect the surrounding and neighboring properties.

The Board found that two (2) parties appeared in support of the Application.

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

Mr. Mills stated that he would move that the Board recommend approval of Special Use Exception Application No. 11568 for the requested special use exception based on the record made at the public hearing because the use does not substantially adversely affect the uses of neighboring and adjacent properties.

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

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

**Case No. 11569 – F. Dale Minner** – south of Road 361A (Jefferson Bridge Road), approximately 350 feet west of Argyle Lane and being more specifically Lot 2 of Walter B. Carey Subdivision (911 Address: 39500 Jefferson Bridge Road, Bethany Beach) (Tax Map I.D. 1-34-17.07-176.00).

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

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

F. Dale Minner was sworn in and testified requesting a variance of 0.9 feet from the ten (10) feet rear yard setback requirement for an existing dwelling, a variance of 3.1 feet from the fifteen (15) feet side yard setback requirement for an existing dwelling, and a variance of 6.3 feet from the forty (40) feet front yard setback requirement for an existing dwelling; that he purchased the Property in January 2015 at a Sheriff's sale; that the dwelling has been vacant for approximately six (6) years; that he purchased both Lots 2 & 3 as shown on the survey; that the dwelling is located on Lot 2; that the dwelling was built in the mid-1970s and is partially located in the setback area; that the Property is a corner lot; that the attached shed has been removed; that the Property is a corner lot making it unique; that the variances will not have a negative impact on neighboring properties; that he contacted the surrounding property owners and the neighbors have no objection to the Application; that the difficulty was not created by the Applicant; that there have been no changes to the original footprint of the dwelling and attached garage; that the Property cannot otherwise be developed; that the dwelling and garage cannot be moved; that the variances will not alter the character of the neighborhood; that the neighborhood is residential; that he and his wife own the adjacent lot; that the variances are the least modifications of the regulations at issue; and that Lots 2 and 3 are considered separate lots. Mr. Minner submitted exhibits for the Board to review.

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. 11569 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The Property is a corner lot, which makes it unique;
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 variances represent the least modifications of the regulations at issue.

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

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

**Case No. 11570 – Robert F. Best, Jr. & Kerri Best** – northwest of Road 266 (New Road), approximately 0.5 mile southwest of Road 269A (Old Orchard Road) (911 Address: 16732 New Road, Lewes) (Tax Map I.D. 3-35-7.00-7.03).

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

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

Kerri Best was sworn in and testified requesting a variance of ten (10) feet from the fifteen (15) feet side yard setback requirement for a proposed detached garage; that the Property was originally a fourteen (14) acre parcel owned by her husband's grandfather; that the adjacent properties are owned by family members; that the Applicants seek to construct a garage; that the Property is large but is uniquely shaped; that the Property has unique angles; that they did not realize the setback requirements until the building permit for the garage was obtained; that the rear yard is heavily wooded with mature trees which limits the buildable area for the garage; that the elimination of the mature trees if the garage were moved farther away from the side property line would affect the character of the neighborhood more than the proposed garage; that the Property is narrow and the property line is angled towards the rear of the Property; that the rear corner of the proposed detached garage will encroach the most into the setback area; that the front corner of the garage will not encroach as much as the rear portion due to the angling of the lot; that the proposed location is in line with the existing driveway; that the variance is necessary to enable reasonable use of the Property; that the difficulty was not created by the Applicants; that the variance will not alter the character of the neighborhood; that the proposed detached garage will match the exterior of the existing dwelling; that the variance will not impair the development and uses of the neighboring or adjacent properties; that the use will not be detrimental to the public welfare; that the variance is the least modification of the regulation at issue; and that the variance is the minimum variance to afford relief.

Mr. Lank advised the Board that if the side property line did not have the unique angle and the side property line was perpendicular to New Road, no variance would be needed.

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. 11570 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The angled property line makes the Property 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 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.

**Meeting Adjourned 9:00 p.m.**