



BOARD OF ADJUSTMENT

AGENDAS & MINUTES

MINUTES OF NOVEMBER 5, 2012

The regular meeting of the Sussex County Board of Adjustment was held on Monday, November 5, 2012, at 7:00 p.m. in the County Council Chambers, County Administrative Building, Georgetown, Delaware.

The meeting was called to order at 7:00 p.m. with Chairman Callaway presiding. The Board members present were: Mr. Dale Callaway, Mr. John Mills, Mr. Brent Workman, Mr. Jeff Hudson, and Mr. Norman Rickard, with James Sharp – Assistant County Attorney, and staff members Mrs. Susan Isaacs – Chief Zoning Inspector, and Mrs. Jennifer Norwood – Recording Secretary.

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

Motion by Mr. Mills, seconded by Mr. Rickard, and carried unanimously to approve the Minutes of October 1, 2012 and October 15, 2012 as circulated. Motion carried 5 – 0.

Motion by Mr. Workman, seconded by Mr. Mills, and carried unanimously to approve the Finding of Facts for October 1, 2012 and October 15, 2012. 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. 11082 – Madon Church, LLC & William Dinardo & Sheila Dinardo – north of Route 54 (Lighthouse Road) east of Swann Drive, being Lot 58 within Swann Keys development. (Tax Map I.D. 5-33-13.13-13.00)

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

Mrs. Isaacs presented the case. Sheila Dinardo was sworn in to testify about the Application. James Fuqua, Esquire, presented the case to the Board on behalf of the Applicants and stated that the Applicants are requesting a 5.45-foot variance from the 10-foot rear yard setback requirement for a proposed deck and a 2.8-foot variance from the 10-foot side yard setback requirement for a proposed set of steps; that the Applicants have an agreement to purchase the property; that the property is located in Swann Keys; that the lot is unique due to

the shape and the location of a cul-de-sac; that the lot is 50 feet deep at the North boundary, and 60 feet deep at the South boundary; that the rear boundary runs at an angle; that 54 square feet of the proposed deck will meet the required setback requirement; that 35 square feet of the proposed deck will meet the required setback requirement; that the narrow lot is 40 feet wide at its widest point; that there are four (4) other lots on the cul-de-sac and each of those lots have been granted variances; that the proposed deck and steps will provide reasonable use of the property; that the difficulty was not created by the Applicants; that the proposed variances will not alter the essential character of the neighborhood; that the rear yard borders the lagoon; and that the variances sought are the minimum variances to afford relief. Mrs. Dinardo, under oath, confirmed the statements by Mr. Fuqua. Mr. Fuqua submitted exhibits in support of the Application.

The Board found that 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. 11082 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The lot is unique in shape due to the cul-de-sac and angled rear property line;
2. The variances will enable reasonable use of the property;
3. The variances will not alter the essential character of the neighborhood; and
4. The variances sought are the minimum variances 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. Workman – yea, Mr. Rickard – yea, and Mr. Callaway – yea.

Case No. 11083 – David G. Schiavone & Deborah C. Schiavone – south of Route 54 (Lighthouse Road) south of Wilson Avenue, being Lot 16 within Cape Windsor development. (Tax Map I.D. 5-33-20.18-146.00)

An application for variances from the side yard setback requirement.

Mrs. Isaacs presented the case. David Schiavone was sworn in to testify about the Application. Mr. James Fuqua, Esquire, presented the case to the Board on behalf of the Applicants and stated that the Applicants are requesting a 5-foot variance from the 10-foot side yard setback requirements on both sides of the property for a proposed dwelling; that the Applicants purchased the property in 2007; that the property is located within the Cape Windsor development; that the existing manufactured home has been removed; that the Applicants intend to place a dwelling on the property; that the original proposed dwelling will be 30 feet wide; that the existing lot is only 40 feet wide; that the rear yard abuts the lagoon; that the “point lots” are only 40 feet wide and other lots in the development are 50 feet wide; that the Applicants would

agree to building a 25 feet wide dwelling and only request a 5 feet variance from the West side yard property line; that no variance is needed for the East side yard setback property line; that the history of the development creates a uniqueness; that the development was developed as a Mobile Home Park; that it is not feasible to build a 20 feet wide dwelling on the property; that there are 25 "point lots" in the development and 15 of those lots have been granted variances; that the lot is undersized; that the variances will enable reasonable use of the property; that the variances will not alter the essential character of the neighborhood; that the difficulty was not created by the Applicants; that the variances are the minimum variances necessary to afford relief; and that the adjacent Lot 15 was granted a variance. Mr. Schiavone, under oath, confirmed the statements by Mr. Fuqua. Mr. Fuqua submitted exhibits in support of the application.

Kerry Wertz was sworn in and testified in support of the application and stated that he is a full time resident in the development and lives near the property; that the manufactured homes that are still in the development have been on the lots since the 1960's and the 1970s; that the new dwellings being constructed beautify the development; and that the proposed variances are in keeping the character of the development.

Dr. E. Ann Riley was sworn in and testified in opposition to the application and stated that she owns Lot 17 which is adjacent to the property and has lived in the development since 1983; that she is concerned about fire safety where fires can easily spread from one house to another due to the close proximity of those houses; that she built an addition in compliance with the setback requirements; that she is concerned the proposed dwelling will block sunlight from her plantings; that she would prefer the Applicant construct a longer dwelling; that she is not in favor of a dwelling only 5 feet from her property line and that she is also concerned what effect the construction will have on the well water. Dr. Riley submitted pictures and surveys of the lot.

Kerry Wertz testified that the Homeowner's Association reviews architectural plans and that they generally have no objection to a 5 feet setback.

In rebuttal, James Fuqua stated that the variance request is only on the West side of the property which is adjacent to Lot 17; that there have been ten (10) variances granted since 2000; and that a longer dwelling would be out of character with the neighborhood.

Mrs. Isaacs read a letter from Charles Perry, Jr. in support of a 25 feet wide dwelling with a 5-foot variance on the West side of the property.

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

The Board found that 1 party appeared in opposition to the application.

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

At the conclusion of the public hearings, the Chairman referred back to this case and the Board discussed the case. Mr. Rickard stated that he would recommend approval of Variance

Application No. 11083 as amended by the Applicant's attorney for the requested variance based on the record made at the public hearing and for the following reasons:

1. The property is unique in size;
2. The variance will enable reasonable use of the property;
3. The difficulty was not created by the Applicants;
4. The variance will not alter the essential character of the neighborhood; and
5. The variance sought is the minimum variance to afford relief.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the variance be **granted for a 5 foot variance on the West side of the property and that the proposed dwelling will measure 25 foot in width; and for the reasons stated.** Motion carried 5 – 0.

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

Case No. 11084 – Millicent Kudrna – west of Road 363 (Parker House Road) northwest corner of Cedar Street & Walnut Court, being Lot 11 within Shady Dell development. (Tax Map I.D. 1-34-16.00-368.01)

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

Mrs. Isaacs presented the case. Millicent Kudrna was sworn in to testify about the Application. Manaen Robinson, Esquire, presented the case to the Board on behalf of the Applicant and stated that the Applicant is requesting a .07-foot variance from the 30-foot front yard setback requirement for an existing manufactured home and a 2-foot variance from the 5-foot side yard setback requirement for an existing shed; that the Applicant purchased the property on July 21, 2012; that the survey completed for settlement showed encroachments into the setback areas; that the manufactured home was placed on the property in 2004 and the shed sometime later; that the structures would have to be destroyed to comply with the setback requirements; that the property is unique because it is a corner lot and narrow in size; that the variances will enable reasonable use of the property; that the difficulty was not created by the Applicant as the Applicant did not place the structures on the property; that the variances will not alter the character of the neighborhood; that the variances are the minimum variances necessary to afford relief; that the Homeowners Association supports the Application; and that there is not much space in the yard to place the shed. Ms. Kudrna, under oath, confirmed the statements by Mr. Robinson.

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

The Board found that a letter was submitted by the Shady Dell Homeowners Association in support of the Application.

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11084 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The property is unique in size and shape;
2. The variances will enable reasonable use of the property;
3. The difficulty was not created by the Applicant;
4. The variances sought are the minimum variances necessary to afford relief.

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

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

Case No. 11085 – Charles Limmer – south of Route 54 (Lighthouse Road) east of Tyler Avenue, being Lot 41 within Cape Windsor development. (Tax Map I.D. 5-33-20.18-69.00)

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

Mrs. Isaacs presented the case. Charles Limmer and Darrell Grier, of Resort Homes, were sworn in and testified requesting a 5-foot variance from the 20-foot rear yard setback requirement for a proposed porch, a 3.4-foot variance from the 10-foot side yard setback requirement for a proposed HVAC unit, a 0.4-foot variance from the 10-foot side yard setback requirement for a proposed dwelling, a 2.4-foot variance from the 10-foot side yard setback requirement for a proposed attached garage and a 5-foot variance from the 10-foot side yard setback requirement for proposed covered steps. Mr. Grier testified that the Property is located within the Cape Windsor development; that the proposed dwelling is being constructed to provide first floor living space; that the design will also be handicap accessible; that the Applicant plans to retire and live at this location; that the rear yard variance will allow room for parking; that the difficulty was not created by the Applicant as Cape Windsor was developed as a manufactured home community; that the Property cannot be built in strict conformity with the Sussex County Zoning Ordinance; that the variances will enable reasonable use of the Property; that the variances will not alter the character of the neighborhood; that the variances requested are the minimum variances necessary to afford relief; that the dwelling cannot meet the setback requirements due to the larger doorways; and that he tells homeowners that they must work within the setback requirements. The Applicant submitted pictures of the Property to the Board.

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

Mr. Rickard stated that he would move that the Board recommend denial of Variance Application No. 11085 for the requested variances based on the record made at the public hearing since the hardship was created by the Applicant because the Applicant could build within the setback area.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the variance be denied for the reasons stated. Motion carried 3 – 2.

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

Case No. 11086 – Geoffrey Manns – north of Route 54 (Lighthouse Road) east of Canvasback Road, being Lot 32 within Swann Keys development. (Tax Map I.D. 5-33-12.16-391.00)

An application for variances from the side yard setback requirement.

Mrs. Isaacs presented the case. Geoffrey Manns and Darrell Grier, of Resort Homes were sworn in and testified requesting a 4.4-foot variance from the required 10-foot side yard setback requirement for a proposed attached shed, a 5-foot variance from the required 10-foot side yard setback requirement for a proposed dwelling and porch, and an 8-foot variance from the required 10-foot side yard setback requirement for proposed HVAC units. Mr. Grier testified that the property is located within the Swann Keys development; that the lot is only 40 feet wide; that the lot was not created by the Applicant; that the development was created as a Mobile Home Community; that the variances will not alter the character of the neighborhood; that there have been approximately 12 other lots granted similar variances in the development; that the variances are not detrimental to public welfare; that the proposed dwelling will be 24 feet wide; that the Applicant intends to place a shed attached to the proposed dwelling; that the attached shed is better suited to last during storms than detached sheds; that detached sheds are swept away in flood waters; that during the most recent storm named “Sandy”, 3 or 4 detached sheds in the neighborhood were destroyed; that the attached shed will be raised to help prevent future water damage; that the attached shed is more aesthetically pleasing than a detached shed; and that there is no access to the attached shed from the interior of the home. Mr. Grier submitted photographs of attached sheds and detached sheds.

Mr. Manns testified that he is tearing down the existing shed due to water damage and others in his neighborhood are doing the same to their sheds; that the duct work and air conditioning systems were ruined by the latest storm; that the dwelling is no longer liveable; that the dwelling will be on the same footprint as the existing mobile home; and that detached sheds can create problems.

Mr. Grier testified that the HVAC units can be relocated to comply with setback requirements and that the attached shed would be fire rated and raised above the ground.

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 in part and denial in part of Variance Application No. 11086. Mr. Rickard moved that the requested 4.4-foot side yard variance for the proposed attached shed and the 5-foot side yard side yard variance for the proposed dwelling and porch be approved based upon the record made at the public hearing and for the following reasons:

1. The property is unique in size;
2. The variances for the proposed dwelling, porch and attached shed will enable reasonable use of the property;
3. The variances will not alter the essential character of the neighborhood; and
4. The variances sought are the minimum variances necessary to afford relief.

As part of his Motion, Mr. Rickard moved that the Board deny the requested 8-foot variance for the proposed air conditioning unit based on the record made at the public hearing and for the following reasons:

1. The difficulty is being created by the Applicant; and
2. The air conditioning unit can be placed within strict conformity of the Sussex County Zoning Ordinance.

Motion by Mr. Rickard was not supported due to lack of a second.

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

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

At the conclusion of the public hearings, the Chairman referred back to this case. Mr. Rickard stated that he would move the Board recommend approval of Variance Application No. 11086 for the requested variance with the stipulation that the air conditioning unit be moved to the front of the dwelling based on the record made at the public hearing and for the following reasons:

1. The property is unique in size;
2. The variances will enable reasonable use of the property;
3. The variances will not alter the character of the neighborhood; and
4. The variances sought are the minimum variances necessary to afford relief.

Motion by Mr. Rickard was not supported due to lack of a second.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be **tabled until November 19, 2012**. Motion carried 5 – 0.

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

Case No. 11087 – Scott R. Cornew – west of Route 1 (Ocean Highway) west of Creek Road, being Lot 106 within Bayview Park development. (Tax Map I.D. 1-34-20.07-146.00)

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

Mrs. Isaacs presented the case. Scott Cornew was sworn in to testify about the Application. Mr. James Fuqua, Esquire, presented the case to the Board on behalf of the Applicant and stated that the Applicant is requesting a 5.5-foot variance from the required 30-foot front yard setback requirement for an existing dwelling, a 0.3-foot variance from the required 10-foot side yard setback requirement for an existing dwelling, a 4.3-foot variance from the required 10-foot side yard setback requirement for a 2nd floor deck, and a 4-foot variance from the required 10-foot rear yard setback requirement for a 2nd floor deck and a screen porch. Mr. Fuqua stated that the Applicant inherited the property in 2010 from his mother; that the Applicant's mother purchased the property in 1987; that the Applicant's mother made no changes to the property; that the Applicant was trying to sell the property when a survey completed for settlement showed the encroachments; that the property is unique in shape; that it cannot be developed in strict conformity; that the variances will not alter the character of the neighborhood since the encroachments have existed for 25 years; that the difficulty was not created by the Applicant; and that the variances sought are the minimum variances necessary to afford relief. Mr. Cornew, under oath, confirmed the statements made by Mr. Fuqua.

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. 11087 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The property is unique in size;
2. The variances will enable reasonable use of the property;
3. The difficulty was not created by the Applicant;
4. The variances will not alter the essential character of the neighborhood; and
5. The variances sought are the minimum variances to afford relief.

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

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

Case No. 11088 – Sharon L. Sherwood & Van Sherwood – northeast of Route 1 (Coastal Highway) approximately 98 feet east of Millcreek Manor Court.(Tax Map I.D. 3-34-1.00-7.01)

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

Mrs. Isaacs presented the case. Sharon Sherwood was sworn in and testified requesting a 3.4 foot variance from the 15 feet side yard setback requirement for an existing detached studio; that the Applicants purchased the property in 2011; that the Applicants are renovating the existing dwelling on the property; that when discussing use of the property with Planning & Zoning it was discovered the detached studio does not meet the setback requirements; that she does not know when the studio was constructed but believes it was constructed in the 1980's;

that the variance will not alter the character of the neighborhood; that the studio is a 2 story structure and would be difficult to move into compliance; that the studio is located on a concrete foundation; that the studio is surrounded by trees; and that the previous owner lived on the property for 25 years. Ms. Sherwood submitted pictures in support of the Application.

Christine Cinton was sworn in and testified in opposition to the application and testified that she is the adjacent neighbor who owns property behind the property subject to this Application; that she purchased her property in 2005; that the Applicants have also applied for a Conditional Use on their property; that she is concerned about the pending Conditional Use application and believes that the proposed use will harm her property value; that she was aware of the location of the studio when she purchased her property; that she has no objection to the location of the detached studio, only the pending Conditional Use; and that she has no objection to the use of the studio as a private studio.

In rebuttal, Sharon Sherwood, testified that she has no intent to change the use of the existing detached studio; that the pending Conditional Use Application is for the existing dwelling; and that she intends to keep the studio as a personal workshop.

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

The Board found that 1 party appeared in opposition to the application.

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

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

At the conclusion of the public hearings, the Chairman referred back to this case. Mr. Mills stated that he would move that the Board recommend approval of Variance Application No. 11088 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The property and the situation are unique;
2. The difficulty was not created by the Applicant;
3. The variance will enable reasonable use of the property;
4. The variance will not alter the essential character of the neighborhood as the detached studio has been on the lot since 1983; and
5. The variance sought is the minimum variance to afford relief.

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

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

Case No. 11089 – Doris Hagans – southwest of Road 262 (Fisher Road) northwest of Springside Drive, being Lot 41 within Cool Spring Farms development. (Tax Map I.D. 3-34-10.00-60.00).

An application for a special use exception to operate a daycare facility.

Mrs. Isaacs presented the case. Doris Hagans was sworn in and testified requesting a special use exception to operate a daycare facility; that she is currently a Level 1 daycare provider and runs a daycare on the property; that she has been in business for 3 years; that she wants to be a Level 2 daycare provider and care for more children; that her hours of operation are Monday through Friday from 6:00 a.m. to 11:00 p.m.; that the ages of children at the daycare range from 1 year to 12 years old; that there is adequate parking on site available; that she has a large fenced in yard and play area; that she will be able to care for up to 15 children over two different shifts; that not all 15 children will be at the daycare at the same time; and that the adjacent properties are currently vacant.

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

Mr. Hudson stated that he would move that the Board recommend approval of Special Use Exception Application No. 11089 for the requested special use exception based on the record made at the public hearing because the use does not substantially affect adversely the uses of adjacent and neighboring properties.

Motion by Mr. Hudson, seconded by Mr. Mills, 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. Hudson – yea, Mr. Mills – yea, and Mr. Callaway – yea.

Case No. 11090 – Parker Ent PSP, John H. Parker, Sr., Trustee – north of Route 326A (State Street) approximately 1,500 feet east of Route 82 (Delaware Avenue). (Tax Map I.D. 1-33-17.09-6.00)

An application for a variance from the minimum depth for a parcel requirement.

Mrs. Isaacs presented the case. John Parker was sworn in to testify about the Application. James Fuqua, Esquire, presented the case to the Board on behalf of the Applicant and stated that the Applicant is requesting a 1.84 foot variance from the required 100 feet minimum depth for a parcel; that the lot is 148 feet wide; that the depth of the lot is 531 feet; that the property is 1.92 acres and the Applicant wants to create 2 lots that will each be 0.9 acres in size; that one lot (Lot 1) will be adjacent to the road and the rear lot (Lot 2) will access the road through a driveway easement over Lot 1; that the property is zoned Agricultural Residential (AR-1) and is required to have a width of 100 feet; that the proposed easement will measure 50 feet in width thereby leaving Lot 1 with a width of 98.16 feet; that the actual driveway will likely be only twenty feet wide; the situation is unique; that the rear of the property is adjacent to the Millsboro Pond; that the variance is necessary to enable reasonable use of the property because the property cannot be

subdivided without the variance; that the difficulty was not created by the Applicant as the Applicant did not create the width of the lot; that the variance will not alter the essential character of the neighborhood; and that the variance sought is the minimum variance necessary to afford relief. Mr. Parker, under oath, confirmed the statements made by Mr. Fuqua.

Elva Allen and Mabel Conaway were sworn in and testified in opposition to the application and submitted a packet of exhibits to the Board. Ms. Allen testified that she is acting on behalf of the Conaway siblings; that the Conaway family disputes the ownership of the property; and that she believes that the Applicant has attempted to steal the property from the Conaway siblings.

Mr. Fuqua objected to the testimony in reference to the ownership since has previously been litigated.

Ms. Allen testified that she believes the variance should be denied and is not litigating the ownership.

Mr. Sharp advised the Board and Ms. Allen that the Board cannot determine who owns the property and that any testimony should be tailored to whether the variance be granted.

Ms. Allen testified that she is still fighting the ownership of the property and that she has contacted local politicians, newspapers, and attorney generals about the ownership of the property; that she does not think the variance is necessary; and that the variance would alter the essential character of the neighborhood.

Mr. Mills went over the standards for granting a variance with Elva Allen.

Mable Conaway testified that she feels the variance will alter the essential character of the neighborhood; that she lives on the adjacent property; that she is concerned the Applicant will construct a road to the existing pond; that the marsh extends 20 feet into the rear yard of the property; that the area is a residential area; that she does not want to see the property subdivided; that she does not want to see a boat ramp on the property; and that she does not believe the Applicant is the rightful owner of the property.

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

The Board found that 2 parties appeared in opposition to the application.

Mr. Sharp advised the Board that any question of ownership of the property is a question for the Court and not the Board and that the only question before the Board is whether the Applicant met the standards for granting a variance.

Motion by Mr. Workman, seconded by Mr. Rickard, and carried unanimously that the case be **tabled until November 19, 2012**. Motion carried 5 – 0.

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

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

An application for a variance from the minimum acreage requirements for a manufactured home to be placed on a farm.

Mrs. Isaacs presented the case.

No one appeared on behalf of this application.

The Board found that 1 party appeared in opposition to the application.

Motion by Mr. Mills, seconded by Mr. Rickard, and carried unanimously that the case be **denied due to lack of representation**. Motion carried 5 – 0.

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

OLD BUSINESS

Case No. 11072 – Dwayne D. Wiltbank – northwest of Road 302 (Phillips Branch Road) approximately 2,100 feet northeast of Road 301 (Holly Lake Road). (Tax Map I.D. 2-34-17.00-9.01)

A special use exception to utilize an existing manufactured home for storage and to retain manufactured home on less than five (5) acres.

This case was left open at the October 15, 2012 hearing to allow the Planning & Zoning staff to research the request.

Mrs. Isaacs stated that the Zoning Inspector took pictures of the structures and they appear to have been on the property for a number of years. Mrs. Isaacs she submitted copies of the 1999 and 2007 Findings of Facts to the Board for review.

Mr. Mills stated that he would recommend that the Board approve the Special Use Exception Application No. 11072 for the requested special use exception based on the record made at the public hearings; and that the use does not substantially affect adversely the uses of the adjacent and neighboring properties since the structures have been on the property for a number of years.

Motion by Mr. Mills, seconded by Mr. Rickard, and carried unanimously that the special use exception be granted for the reasons stated. Motion carried 4 – 1.

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

OTHER BUSINESS

Case No. 10918 – Anthony S. Nerlinger – east of Route 1 (Coastal Highway) east of Ocean Road being Lot 84 within Tower Shores development.

A variance from the minimum lot coverage per dwelling and front yard setback requirement.

Request for time extension.

Mrs. Isaacs read a letter from the Applicant requesting a 1-year time extension.

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

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

Meeting Adjourned 9:50 p.m.