

MINUTES OF NOVEMBER 7, 2016

The regular meeting of the Sussex County Board of Adjustment was held on Monday, November 4, 2016, 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 Callaway presiding. The Board members present were: Mr. Dale Callaway, Mr. John Mills, Mr. Jeff Hudson, and Mr. Brent Workman. Mr. Norman Rickard was absent. Also in attendance were Mr. James Sharp – Assistant County Attorney and staff members Ms. Janelle Cornwell – Planning & Zoning Director Appointee, and Mrs. Jennifer Norwood – Recording Secretary.

The Pledge of Allegiance was led by Mr. Callaway.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Revised Agenda as circulated. Motion carried 4 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes and Finding of Facts for September 12, 2016 as circulated. 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.

PUBLIC HEARINGS

Case No. 11854 – James Wharton – seeks a variance from the minimum lot width for a parcel of land requirement (Section 115-25A(1) of the Sussex County Zoning Code). The property is located on the south side of Kings Crossing Road and northeast side of Little Hill Road approximately 365 feet from the southeast corner of said roads. 911 Address: None Available. Zoning District: AR-1. Tax Map No.: 3-33-10.00-37.00.

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.

James Wharton was sworn in and testified requesting a variance of 98.3 feet from the 150 feet lot-width requirement for a parcel; that the Property is unique because the soil test performed on the site shows that the best location for a septic system is near the Little Hill Road access; that access from Kings Crossing Road would involve crossing a large drainage ditch and would impact a large farming operation; that any other lot configuration would adversely affect the existing farming activity as well as impacting a large drainage ditch; that the desired lot location is in the rear of the Property; that the best use of the land would be allow an entrance at the Little Hill Road access point; that the soils in the rear of the Property are the most suitable for a septic system per the most recent soil evaluation; that there is an existing culvert at the desired access indicating past access to the Property at the Little Hill Road access point; that there are several entrances in the area similar to the one described for the Property; that the required road frontage for a standard lot in an AR-1 zoning district is 150 feet; that the frontage along Little Hill Road is 51.70 feet; that

the variance requested in the minimum variance to afford relief; that a large portion of the Property on the Kings Crossing side of the Property is not suitable for septic per the soil evaluation; that the access on Little Hill Road has been in place for many years; that an existing ditch on the Property also creates a difficulty to access the Property from Kings Crossing Road; that he plans to give the lot to his son; that he hopes to give other children a portion of this Property in the future; that the drainage ditch bisects the Property; that he spoke with his neighbor about the Application; that the neighbor is in support of the Application; that he obtained the Property from his parents in 2010; and that he has not previously subdivided the Property.

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. Hudson moved to approve Variance Application No. 11854 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The existing entrance and low lying lands make this Property unique;
2. The Property cannot otherwise 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 sought is the minimum variance necessary to afford relief.

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

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

Case No. 11864 – Robert L. Palmer & Sue Ann Palmer – seek variances from the separation distance requirement between accessory structures in a mobile home park, side yard setback, and rear yard setback requirements (Section 115-172G(7) and 115-185F of the Sussex County Zoning Code). The property is located on the south side of Barque Road in the White House Beach Development off of White House Road. 911 Address: 35432 Barque Road, Millsboro. Zoning District: AR-1. Tax Map No.: 2-34-30.00-6.00-22037.

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.

Robert Palmer was sworn in to testify about the Application. Tim Willard, Esquire, presented the case on behalf of the Applicants and submitted a letter of support from White House Beach, Inc.

Mr. Willard stated that the Applicants are requesting a variance of 6.1 feet from the twenty (20) feet separation distance requirement between accessory buildings in a mobile home park for

a proposed garage, a variance of 2.4 feet from the fifteen (15) feet side yard setback requirement on the west side for an existing shed, and a variance of 3.7 feet from the twenty (20) feet rear yard setback requirement for an existing shed; that the Applicants plan to retire and live in the area; that the Applicants purchased the home in White House Beach in 2013; that White House Beach is a conditional use mobile home park that is unique; that the lot is irregular in shape and consists of approximately 6,000 square feet; that the mobile home was on the Property when the Applicants purchased the Property; that the Applicants inquired about constructing a garage on the Property; that the Applicants received approval from White House Beach for the garage; that the concrete pad has been poured and some framing of the proposed garage has been started; that the Applicants obtained a building permit for the garage in June 2016; that accessory buildings in a mobile home park must be separated by 20 feet per the Sussex County Zoning Code; that the Applicants seek a variance from the proposed garage and a corn crib on a property to the rear of the lot; that the corn crib is approximately 100 years old and is identified as a shed on the survey; that there are sheds existing on the Property which encroach into the setback areas; that the sheds were on the Property as well when the Applicants purchased the lot; that the existing sheds may be removed once the proposed garage is complete; that the size and shape of the Property are unique; that the Applicants did not create the need for the variance; that the corn crib has created the difficulty; that the Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code; that the existing mobile home was placed at an angle and the proposed garage has been designed to meet the angle of the home; that the variances are necessary to enable reasonable use of the Property; that the garage will provide the Applicants with reasonable storage space; that exceptional practical difficulty was not created by the Applicants; that the Applicants did not place the corn crib so close to the property line; that the variances will not alter the essential character of the neighborhood; that there are other outbuildings and accessory buildings in the neighborhood; and that the variances are the minimum variance necessary to afford relief. Mr. Willard submitted an exhibit to the Board to review.

Mr. Palmer, under oath, affirmed the statements made by Mr. Willard and testified that the framing for the garage was started before the realizing the separation requirement was not going to be met; and that his neighbors and the park support the Application.

Ms. Cornwell advised the Board that a variance was granted in 1985 for the mobile home.

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

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the case be **left open to allow the staff to research the history of the corn crib on the adjacent property**. Motion carried 4 – 0.

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

Case No. 11865 – John Aldock & Judy Aldock – seeks a variance from the side yard setback requirement (Section 115-34B of the Sussex County Zoning Code). The property is located on the

east side of Heather Lane in Bethany Dunes off of Coastal Highway. 911 Address: 30994 Heather Lane, Bethany Beach. Zoning District: MR. Tax Map No.: 1-34-9.00-426.00.

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

John Aldock & Judy Aldock were sworn in to testify about the Application. James Fuqua, Jr., Esquire, presented the case on behalf of the Applicants and submitted an exhibit booklet for the Board to review.

Mr. Fuqua stated that the Applicants are requesting a variance of two (2) feet from the ten (10) feet side yard setback requirement on the north side for a proposed elevator; that the Applicants own a home in the Bethany Dunes subdivision; that the Property borders the beach and fronts on Heather Lane; that the variance will allow the Applicants to convert an existing dumbwaiter shaft into a handicap accessible elevator; that the Applicants purchased the Property in 2006; that the dwelling was built in 1984; that the ground floor is used for parking underneath the dwelling and the dwelling is elevated; that the Applicants are in their 70s; that the only access to the house is via stairs; that the Applicants are finding it increasingly more difficult to access their home due to their age and mobility; that the proposed elevator will provide the Applicants with access to the home; that the proposed elevator will be handicap accessible; that the elevator will use the existing dumbwaiter shaft; that that Bethany Dunes Architectural Review Committee has approved the proposed elevator and a variance from the community's restrictive covenants; that the Applicants' neighbor opposed the variance request; that the Applicants have tried to reach their neighbor to discuss her concerns; that the Property is unique since all the living space is elevated and an elevator will allow the Applicants to access their home even after their mobility decreases; that the existing shaft provides a unique opportunity to add the elevator; that there are no other reasonable options to locate an elevator; that the variance is necessary to enable reasonable use of the Property; that the proposed elevator will open into common areas of the home; that other proposed locations of the elevator would disrupt the internal layout of the home or would be located in a bedroom; that the difficulty is not being created by the Applicants; that the dumbwaiter was on the Property when the Applicants purchased the Property; that the variance will not alter the essential character of the neighborhood; that the proposed elevator will not affect any views; that there are trees on neighboring property which buffer the views of the proposed elevator; that the proposed elevator will not project any further into the setback than a chimney is permitted to encroach; that a chimney can encroach two (2) feet into the side yard; that the elevator will have the same appearance as a chimney from the exterior of the home; that the variance requested is the minimum variance to afford relief as it will allow for a handicap accessible elevator; and that the difficulty is not created by the Applicants since there is an inherent need and a pre-existing characteristic to the Property for an elevator.

Mr. Aldock, under oath, affirmed the statements made by Mr. Fuqua and testified that the elevator cannot be built elsewhere due to the existing dwelling's location on the lot and the interior design of the dwelling; that the Applicants cannot build the elevator on the ocean side of the Property because of the location of an existing dune; that the Applicants cannot build in the front of the dwelling because the elevator would block the front door and would be located in a bedroom;

that the bedrooms have built-in furniture; that the elevator cannot be located on other side of the house due to the location of bedrooms; that placement of the elevator in the center of the house would be a threat to the integrity of the roof; that he and his wife are in their 70s and, as they get older, they will have difficulty accessing their living space without an elevator; that the proposed elevator will be compliant with the Americans with Disabilities Act; that most guests are also at an age that makes it difficult to access the guest rooms; that the proposed elevator will allow the Applicants to stay in their home as they age; that the proposed elevator is the minimum sized needed for a handicap accessible elevator; and that the elevator cannot be turned to fit within the setback area while still providing access to the home.

Betty Cantera was sworn in to testify in opposition to the Application. Rob Gibbs, Esquire, was present on behalf of Ms. Cantera and stated that Ms. Cantera owns the adjacent property on the side of the proposed elevator; that Ms. Cantera feels that the Homeowners Architect Review Committee overstepped their authority and cannot grant a variance; that no provision of the restrictive covenants allows the committee to grant variances or change the recorded covenants; that the dumbwaiter shaft is not a reason to allow for a variance; that there are no unique circumstances to the Property; that the Property can be otherwise developed; that the Applicants can reasonably use the Property without a variance; that the difficulty is being created by the Applicants; that the Applicants do not want to be inconvenienced; and that the granting of the variance would set a negative precedent in the neighborhood.

Ms. Cantera, under oath, affirmed the statements made by Mr. Gibbs and testified that she is 86 years old; that she believes the Applicants can turn to the elevator to bring it into compliance; that the shaft has to be modified to accommodate an elevator which changes the integrity of the existing shaft; that the elevator will be taller than the existing dumbwaiter; and that the Applicants have not explored all options for the elevator.

In rebuttal, Mr. Fuqua stated that the proposed elevator will not extend any higher than the existing dumbwaiter shaft.

Mr. Aldock testified that his architect has told him that the proposed location of the elevator is the only place the elevator can be placed.

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

The Board found that one (1) party appeared in opposition to the Application.

Motion by Mr. Workman, seconded by Mr. Mills, and carried unanimously that the case be **tabled until November 21, 2016**. Motion carried 4 – 0.

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

Case No. 11866 – Michael J. Baier & Hope C. Baier – seek variances from the side yard setback requirement (Section 115-25C of the Sussex County Zoning Code). The property is located on the

west side of Cleveland Avenue approximately 160 feet south of Lincoln Drive. 911 Address: 38768 Cleveland Avenue, Selbyville. Zoning District: AR-1. Tax Map No.: 5-33-20.14-50.00.

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

Michael Baier was sworn in to testify about the Application. Ray Tomasetti, Jr., Esquire, presented the case on behalf of the Applicants and submitted pictures for the Board to review.

Mr. Tomasetti stated that the Applicants are requesting a variance of 6.5 feet from the ten (10) feet side yard setback requirement on the south side for a dwelling, a variance of 9.6 feet from the ten (10) feet side yard setback requirement on the south side for a set of stairs, a variance of 5.7 feet from the ten (10) feet side yard setback requirement on the south side for a dwelling, a variance of 5.8 feet from the ten (10) feet side yard setback requirement on the south side for a four season room, and a variance of eight (8) feet from the ten (10) feet side yard setback requirement on the south side for a deck.

Mr. Tomasetti stated that an existing fence has been removed by the Applicants; that the adjacent neighbor has been granted a similar variance; that the Applicants are the third owners of the Property; that a survey completed on September 21, 2016, showed the encroachments; that the lot measures 50 feet wide by 90 feet deep; that the setbacks in Cape Windsor were previously 5 feet and the manufactured home was likely placed on the lot and believed to be in compliance with that setback requirement; that there is no on street parking permitted in Cape Windsor so the dwelling is set further to the south side to allow room for parking; that the Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code; that the Applicants do not plan to move the manufactured home; that the manufactured home has been on the Property since 1973; that the additions were added later; that the difficulty has not been created by the Applicants; that the variances will not alter the character of the neighborhood; that the Applicant has spoken with his neighbor and the neighbor does not object to the variance; that the Applicants will have to come back to the Board for a rear yard variance for four season room as the need for the rear yard variance was not discovered until after the Application was filed; and that the variances are the minimum variances necessary to afford relief.

Mr. Baier, under oath, affirmed the statements made by Mr. Tomasetti, and testified that he spoke to his neighbors and they have no objection to the Application; that he purchased the Property in September 2016; and that he plans to make no additions to the structures at this time.

Ms. Cornwell advised the Board that there is no known variance issued for the Property.

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

Mr. Mills moved to approve Variance Application No. 11866 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The unusual lot size and shape make this Property unique;

2. The Property is narrow;
3. The variances are necessary to enable reasonable use of the Property;
4. The exceptional practical difficulty was not created by the Applicants;
5. The variances will not alter the essential character of the neighborhood; and
6. The variances sought are the minimum necessary to afford relief.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variances be **granted for the reasons stated**. Motion carried 4 – 0.

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

Case No. 11867 – Nicholas J. D’Ascoli – seeks variances from the side yard setback requirement (Section 115-25C of the Sussex County Zoning Code). The property is located on the southeast side of the dead end of the Taft Avenue approximately 390 feet southwest of Old Lighthouse Road. 911 Address: 38835 Taft Avenue, Selbyville. Zoning District: AR-1. Tax Map No.: 5-33-20.18-166.00.

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.

Gerald D’Ascoli and Nicholas D’Ascoli were sworn in to testify about the Application. Raymond Tomasetti, Jr., Esquire, presented the case on behalf of the Applicants and submitted exhibits for the Board to review.

Mr. Tomasetti stated that the Applicants are requesting a variance of five (5) feet from the ten (10) feet side yard setback requirement on the west side, a variance of 0.5 feet from the ten (10) feet side yard setback requirement on the east side, and a variance of 0.3 feet from the ten (10) feet side yard setback requirement on the east side for a proposed dwelling; that the Applicants plan to remove the existing manufactured home located on the Property and construct a new dwelling; that the Cape Windsor Community Association has no objection to the Application; that the Property has been in the Applicants’ family since 1970; that the existing structure was placed on the Property in 1986; that the Applicants’ parents passed away in 2014 thereby leaving the Property to their children; that the proposed dwelling will be placed so as to provide better parking and turn around area since the Property is located along a dead end street; that the existing structure encroaches farther into the side yard setback on the lagoon side of the Property than the proposed dwelling will encroach; that the adjacent neighbors support the Application; that the Property has frontage of 45.65 feet and is a narrow lot; that the depth of the lot allows room to move the dwelling farther back on the lot without encroaching the rear yard setback requirement; that the existing dwelling violates the setback requirements; that the variances requested are the minimum necessary to afford relief; and that the proposed dwelling will not alter the essential character of the neighborhood.

Gerald D’Ascoli and Nicholas D’Ascoli, under oath, affirmed the statements made by Mr. Tomasetti.

Gerald D'Ascoli testified that the proposed dwelling will be approximately 4,400 square feet in size, including the garage and decks; that the garage will be located underneath the dwelling; that the dwelling will be for the personal use of their families; that, during Hurricane Sandy, the Applicants experienced flood issues and damage to the existing structure; that the Property narrows; that there is no cul-de-sac off of Taft Avenue; that the Applicants looked at numerous house plans to find a dwelling that could be built in compliance with the setback requirements; that the narrowness of the Property prevents a dwelling from being built in strict conformity with the Sussex County Zoning Code; and that a portion of the building envelope is needed for the parking and turn-around areas.

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

Mr. Mills moved to approve Variance Application No. 11867 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The lot width of the Property 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 Applicants;
4. The Applicants did not create the size of the lot;
5. The variances will not alter the essential character of the neighborhood; and
6. The variances sought are the minimum variances necessary to afford relief.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the variances be **granted for the reasons stated**. Motion carried 4 – 0.

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

Case No. 11868 – Stephen C. Chandler & Traci M. Chandler – seek variances from the side yard and rear yard setback requirements (Section 115-25C of the Sussex County Zoning Code). The property is located on the north side of Shady Lane approximately 0.21 miles east of Banks Road. 911 Address: 24354 Shady Lane, Millsboro. Zoning District: AR-1. Tax Map No.: 2-34-17.00-151.00.

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

Stephen Chandler & Traci Chandler were sworn in and testified requesting a variance of fifteen (15) feet from the twenty (20) feet rear yard setback requirement and a variance of five (5) feet from the ten (10) feet side yard setback requirement on the northeast side for a proposed detached pole barn. The Applicants submitted pictures to the Board to review.

Traci Chandler testified that the Property is unique because it is narrow; that the lot measures 75 feet by 170 feet; that all lots in the area are similar in size; that, in order to comply with the Sussex County Zoning Code, the proposed pole barn would have to be located in the center of the Property; that placing the pole barn in the center of the yard would not be in keeping with the character of the neighborhood; that the Applicants purchased the Property in August 2013 and did not create the size of the lot; that the septic system located on the left side and the middle of the Property; that neighbors have received similar variances for detached garages and pole barns; that the proposed location of the pole barn is in keeping with the character of the neighborhood; that the variances are the minimum variances necessary to afford relief; that the existing septic system also prevents the proposed pole barn from being built in compliance; that there is no current pole barn or garage on the Property; that the proposed pole barn will be used to store their pontoon boat and provide a workshop area for their woodworking hobby; that, if the pole barn was moved closer to the home, it would be on top of the drain field for the septic system; that the proposed pole barn will measure 40 feet by 40 feet; that the Applicants considered a smaller pole barn but the pontoon boat with trailer measures 35 feet deep and would not fit in a smaller pole barn; and that there is an existing fence at the rear of their Property.

Stephen Chandler testified that the shed has been moved elsewhere on the Property; and that the Applicants intend to remove the shed when the pole barn is constructed.

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 moved to approve Variance Application No. 11868 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The variances are necessary to enable reasonable use of the Property;
2. The size of the lot and the existing septic system make this Property unique;
3. The exceptional practical difficulty was not created by the Applicants;
4. The variances will not alter the essential character of the neighborhood;
5. There are similar structures in the neighborhood; and
6. The variances sought are the minimum variances necessary to afford relief.

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

Case No. 11869 – Autozone Northeast, LLC c/o Curtis Sigler – seeks a variance from the combined corridor overlay zone buffer requirement (Section 115-194E(3) of the Sussex County Zoning Code). The property is located on the northeast side of Coastal Highway (Route 1) approximately 0.21 miles south of Savannah Road. 911 Address: 17649 Coastal Highway, Lewes. Zoning District: C-1. Tax Map No.: 3-34-6.00-4.01.

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.

Brian Conlon was sworn in and testified requesting a variance of 7.4 feet from the twenty (20) feet landscape buffer requirement; that he is the engineer for Auto Zone; that Auto Zone is proposing to construct a new facility on the Property; that the Property is located along Coastal Highway (Route 1); that the Applicant seeks the variance to allow for parking within the landscape buffer area; that the Property is narrow and does not provide enough space for the proposed building and two (2) rows of parking along the front of the Property; that the minimum parking requirement cannot be met without placing the parking spaces in the front landscape buffer area; that the proposed parking is consistent with the adjacent properties and will provide additional buffer area from the right-of-way line as compared with the adjacent properties; that the parking cannot be located in the side yard due to the loading and trash removal operations required for the site; that the Applicant looked at re-configuring the building but could not do so while still meeting all of the necessary parking and setback requirements; that the existing lot dimensions and configuration of the Property have significantly constrained the redevelopment of the site and were not created by the Applicant; that the Applicant has tried to limit the requested variances and, to the extent variances are unavoidable, the Applicant has explored ways to minimize the encroachments and mitigate the impact of the encroachments on neighbors and the zoning district; that the variance will not alter the essential character of the neighborhood; that a majority of the properties in the area have parking within the buffer area; that the development will not be detrimental to the public welfare; that there is significant landscaping in the right-of-way area; that the variance is the minimum variance to afford relief; that the proposed store is slightly smaller than other stores the Applicant usually builds; that the Applicant typically has 30 to 40 parking spaces available for its stores and this site will have slightly fewer spaces available; that the Property is angled and the angled property lines create an odd shaped property; and that a propane tank and a well will be located on the site as well.

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

Mr. Mills moved to approve Variance Application No. 11869 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The Property is unique to its odd shape;
2. The variance is necessary to enable reasonable use of the Property;
3. The exceptional practical difficulty was not created by the Applicant;
4. The Applicant has used a smaller building than normal to accommodate the unique size of the lot;
5. The variance will not alter the essential character of the neighborhood; and
6. The variance sought is the minimum variance necessary to afford relief.

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

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

Case No. 11870 – Vance Phillips – seeks a variance from the minimum lot width for a parcel of land requirement (Section 115-25A(1) of the Sussex County Zoning Code). The property is located on the east side of Old Hickory Road approximately 0.70 miles north of Airport Road. 911 Address: 31891 Old Hickory Road, Laurel. Zoning District: AR-1. Tax Map No.: 4-32-7.00-26.01.

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.

Steve Adkins, of Steve Adkins Land Surveying, LLC, was sworn in and testified requesting a variance of 42.29 feet from the 150 feet lot-width requirement for a parcel of land; that the Applicant is selling a portion of his property; that the buyer is a young farmer who owns farmland in the area; that the portion of the Property being sold contains an existing packing shed; that the packing shed was used by the Phillips family for their farming business; that a farmhouse is located nearby as well; that the Applicant is only interested in selling the packing shed to the buyer and the Applicant seeks to retain the rest of the farm; that the proximity of the existing dwelling, which will be retained by the Applicant, and packing shed make it impossible to subdivide the Property so that the new parcel will comply with the lot-width requirement; that there is a fence between the packing shed and the house; that the buyer is also purchasing property owned by the Applicant across the street from the packing shed; that the Property cannot otherwise be developed due to the location of the house and a nearby ditch; that the buildings will meet all setback requirements; that the difficulty is not being created by the Applicant; that the variance will not alter the essential character of the neighborhood; that the packing shed was built in the 1980s; that the area is a farming area and will remain a farming area; that the variance is the minimum variance necessary to afford relief; that the lot cannot be realigned to meet the lot-width requirement due to the location of the house; and that the buyer will continue to use the packing shed and does not propose to place a dwelling on the lot.

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. Hudson moved to approve Variance Application No. 11870 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The existing structures and the use of the Property make it unique;
2. The Property cannot otherwise 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 sought is the minimum variance necessary to afford relief.

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

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

Case No. 11871 – Thomas K. Riggin – seeks a variance from the side yard setback requirement (Section 115-25C of the Sussex County Zoning Code). The property is located on the south side of Sharptown Road approximately 646 feet east of Mount Pleasant Road. 911 Address: 6544 Sharptown Road, Laurel. Zoning District: AR-1. Tax Map No.: 4-32-11.00-45.06.

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.

Thomas Riggin was sworn in and testified requesting a variance of ten (10) feet from the fifteen (15) feet side yard setback requirement on the west side for a proposed detached garage; that the existing dwelling is located thirty (30) feet from the side property line; that the existing septic tank and drain field take up majority of the rear yard; that the existing driveway is less than one (1) foot from the side property line; that the Property cannot otherwise be developed in strict conformity due to the location of the existing septic system; that the proposed garage cannot be turned since that would not allow sufficient room to back his trailer into the garage without driving on the neighbor's property; that the difficulty has not been created by him; that he needs the garage to house his tractor, tools, an eight (8) foot trailer, and a lawn mower; that the proposed garage will not alter the essential character of the neighborhood; that there are similar garages and storage sheds in the area; that his neighbor has no objection to the Application; that the variance is the minimum variance to afford relief; that the proposed garage cannot be built on the opposite side of the Property since there is no access to that side of the Property from the road; that the proposed garage will line up with his existing driveway; that the lean-to shown on the survey may not be constructed; that he could not move the garage to the east because he would not be able to drive to the garage door.

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

Mr. Mills moved to approve Variance Application No. 11871 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The existing location of the dwelling and driveway make this Property unique;
2. The variance is necessary to enable reasonable use of the Property;
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 sought is the minimum variance necessary to afford relief.

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

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

ADDITIONAL BUSINESS

Case No. 11292 – Gregory Stevens & Rita Stevens – seeks a variance from the front yard and rear yard setback requirements (Section 115-25C of the Sussex County Zoning Code). The property is located on the south of Road 284 (Mulberry Knoll Road and Bay Shore Drive and also being Lots 6 and 7 within Bay Shore Hills. 911 Address: 31508 East Lane, Lewes. Zoning District: AR-1. Tax Map No.: 3-34-18.00-49.01.

REQUEST FOR A TIME EXTENSION

Ms. Cornwell read a letter from the Applicant requesting a three (3) to six (6) month 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 six (6) months**. Motion carried 4 – 0.

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

Meeting Adjourned 9:13 p.m.