



BOARD OF ADJUSTMENT

AGENDAS & MINUTES

MINUTES OF OCTOBER 1, 2012

The regular meeting of the Sussex County Board of Adjustment was held on Monday, October 1, 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, and seconded by Mr. Workman, and carried unanimously to approve the Revised Agenda 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. 11051 – Colonial East LP – north of Road 270 (Wolf Neck Road) east of Route 1 (Coastal Highway). (Tax Map I.D. 3-34-6.00-335.01)

A special use exception to place a billboard and a variance from the required side yard setback, a variance from the maximum square footage requirement, a variance from the maximum height requirement and a variance from the distance from another billboard requirement.

Mrs. Isaacs presented the case. Steve Class was sworn in to testify about the application. Mr. David Hutt, Esquire, presented the case to the Board on behalf of the Applicant and stated that the Applicant is requesting a special use exception to place a billboard, a 600-square-foot variance from the maximum 300-square-foot requirement, a 15-foot variance from the maximum 25-foot height requirement for a billboard, a 40-foot variance from the 50-foot side yard setback requirement for a billboard exceeding 200-square-feet, a 10-foot variance from the 300-foot distance requirement from another billboard, and a 110-foot variance from the 300-foot distance requirement from another billboard. Mr. Hutt submitted exhibits which included aerial photos, site plan, tax map and pictures. Mr. Hutt stated that the existing billboard was constructed between 1973 and 1974; that the billboard was reconstructed in the 1980's after storm damage;

that the billboard was constructed prior to the adoption of the Sussex County Zoning Ordinance on billboards in 1995; that the existing billboard is a wooden pole structure; that the proposed billboard will be a steel monopole structure; that the proposed billboard will be a 2-sided billboard and measure 12 feet by 50 feet; that the proposed billboard is consistent with other billboards in the area; that the existing billboard is low and the proposed billboard will be raised to avoid interference with the sight lines of surrounding businesses in the area; that the development of signs around the site creates uniqueness; that the existing billboard was the first in the area along Route 1 to be built and many other signs have been built nearby; that the variances are needed to enable reasonable use of the property; that the variances will not alter the essential character of the neighborhood as there are other billboards in the area; that the variances sought are the minimum variances to afford relief; that the proposed use will not substantially affect adversely the surrounding and adjacent properties; that there have been 20 special use exceptions granted in the area for billboards; and that the proposed billboard has rental agreements in place. Mr. Class, under oath, confirmed the statements by Mr. Hutt.

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

The Planning & Zoning Office received nine (9) letters in opposition to the application.

Mr. Rickard stated that he would move that the Board recommend approval of Special Use Exception and Variance Application No. 11051 for the requested special use exception and variances based on the record made at the public hearing and for the following reasons:

1. The use does not substantially affect adversely the uses of the adjacent and neighboring properties;
2. The property is unique due to the history of the existing billboard;
3. The variance will enable reasonable use of the property;
4. The difficulty was not created by the Applicant;
5. The variances, if granted will not alter the essential character of the neighborhood; and
6. The variances sought are the minimum variances to afford relief.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the special use exception and 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. 11052 – Stephen Peter Somers – east of Road 357 (Cedar Neck Road) north east corner of South Orlando Avenue and Lloyd Street, being Lot 69 within Murray Estates development. (Tax Map I.D. 1-34-9.00-353.00)

A variance from the front yard and corner side yard setback requirements.

Mrs. Isaacs presented the case. Stephen Somers 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 was requesting a 0.6-foot variance from the required 30-foot front yard setback requirement and a 1.6-foot variance from the required 15-foot corner side yard setback requirement for an existing dwelling, a 1.5-foot variance from the required 15-foot corner side yard setback requirement for an existing swimming pool and second floor deck, and a 1.9-foot variance from the required 15-foot corner side yard setback requirement for an existing shed. Mr. Robinson submitted a survey to the Board and stated that the survey completed for settlement showed the encroachments into the setback areas; that the Applicant purchased the property on May 18, 2012; that the dwelling was constructed in 1987; that the pool was constructed in 1988; that the shed was placed in 2000; that the sunroom was constructed in 2005; that the property is a corner lot which creates uniqueness; that the difficulty was not created by the Applicant; that the variances will enable reasonable use of the property; that the structures would have to be destroyed in order to comply with the setback requirements; that the variances will not alter the essential character of the neighborhood; and that the variances sought are the minimum variances to afford relief. Mr. Somers, under oath, confirmed the statements by Mr. Robinson.

Mrs. Isaacs stated that all building permits had been obtained and only the pool and fence still needed a Certificate of Compliance.

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. 11052 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. There is no possibility the Property can be developed in strict conformity with the Sussex County Zoning Ordinance;
3. The difficulty was not created by the Applicant as the problem was created by a previous owner;
4. The variances will enable reasonable use of the property;
5. The variances, if granted will not alter the essential character of the neighborhood; and
6. The variances sought are the minimum variances 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 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. 11053 – Joseph Ingui and Bella Ingui – west of Road 273 (Country Club Road) north of Winner Circle, being Lot 30 within Stable Farm development. (Tax Map I.D. 3-34-19.00-1343.00)

A variance from the front yard setback requirement.

Mrs. Isaacs presented the case. Joseph and Bella Ingui were sworn in and testified requesting a 4.4-foot variance from the required 30-foot front yard setback requirement for a proposed dwelling. Mrs. Ingui testified that the Applicants purchased the lot in October 2010; that the Applicants currently live in the development; that the lot is vacant and since the Applicants purchased the lot the Applicants have maintained the lot; that the proposed two-story dwelling will be approximately 3,000-square-feet in size; that other homes in the development are larger than the proposed dwelling; that the proposed dwelling is similar in size to all dwellings in the development; that the lot is a corner lot which makes it unique; that the variance, if granted, will not alter the character of the neighborhood; that the proposed dwelling will actually improve the character of the neighborhood; that the variance requested is the minimum variance to afford relief; and that the Applicants intend to construct an attached garage so the Applicants will not need any additional storage.

The Board found that 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 Variance Application No. 11053 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The property is unique is size and is a corner lot;
2. The variance will enable reasonable use of the property;
3. The difficulty was not created by the Applicants;
4. The variance, if granted will not alter the essential character of the neighborhood; 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. Workman – yea, Mr. Rickard – yea, Mr. Hudson – yea, Mr. Mills – yea, and Mr. Callaway – yea.

Case No. 11054 – 36 Builders d/b/a Insight Homes – north of Route 88 (Cave Neck Road) north of Riverstone Drive, being Lot 168 within Windstone development. (Tax Map I.D. 2-35-22.00-1140.00)

A variance from the side yard and rear yard setback requirements.

Mrs. Isaacs presented the case. Christina Wagner of Insight Homes was sworn in and testified requesting a 4.8-foot variance from the required 10-foot side yard setback requirement for an existing air conditioning unit, a 0.6-foot variance from the required 10-foot side yard setback requirement for an existing dwelling, and a 0.09-foot variance from the required 10-foot rear yard setback requirement for an existing morning room. Mrs. Wagner testified that the Applicant sought the requested variances for a dwelling that was placed on the property; that the

surveyor did not outline the correct setback requirements for the lot on the survey; that the Applicant has never had an issue with the surveyor before; that the Applicant has built 40 dwellings in the development; that the property was vacant for years; that there is no uniqueness to the lot as it is a normal sized lot; that the Applicant obtained a building permit and a temporary Certificate of Compliance on the dwelling; that the air conditioning unit can be moved; that the neighbors have no objection to the application; that the Applicant relied on the surveyor for the placement of the dwelling; and that the Applicant was not aware of the encroachment until the Applicant applied for the Certificate of Compliance.

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

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

The vote by roll call; Mr. Mills – yea, Mr. Hudson – yea, Mr. Workman – yea, Mr. Rickard – 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 recommend that the Board deny Variance Application No. 11054 for the requested variances since the Applicant did not meet the standards for granting a variance.

Motion by Mr. Mills, seconded by Mr. Rickard, and carried unanimously that the variance be **denied since it did not meet the standards for granting a variance**. Motion carried 4 – 1.

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

Case No. 11055 – 36 Builders d/b/a Insight Homes – north of Route 88 (Cave Neck Road) north of Riverstone Drive, being Lot 165 within Windstone development. (Tax Map I.D. 2-35-22.00-1137.00)

A variance from the rear yard setback requirement.

Mrs. Isaacs presented the case. Christina Wagner of Insight Homes was sworn in and testified requesting a 0.5-foot variance from the required 5-foot rear yard setback requirement for an existing deck; that a 10 foot x 12 foot deck was built for the property owner; that the property owner refused to change the size of the deck to bring the deck into compliance; that builder is prepared to remove the deck; that a building permit was obtained. The Board asked the Applicant if she would like more time to prepare for her Application but she declined.

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 deny Variance Application No. 11055 for the requested variance since it does not meet the standards for granting a variance.

The need for the variance was created by the Applicant and the Applicant could develop the Property in strict conformity with the Sussex County Zoning Code.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the variance be **denied since it does not meet the standards for granting a variance**.
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. 11056 – Helen E. Peterson, heirs, c/o Herschel Showell – north of Armory Road approximately 410 feet west of Road 340 (Townsend Road). (Tax Map I.D. 4-33-6.00-41.00)

A special use exception to replace a manufactured home in a Medium Density (MR) District.

Mrs. Isaacs presented the case. Herschel Showell was sworn in and testified requesting a special use exception to replace a manufactured home in a Medium Density District (MR). Mr. Showell testified that the existing unit has been on the lot since the 1960's; that he is a Veteran and the Veteran's Administration has a program which provided the Applicant with a newer manufactured home; that the newer unit is a 1979 model; that currently both units are on the property; that he plans to demolish the older unit; that he has lived on this property for 15 years; that he has never received a complaint about the manufactured home; that if he is unable to replace the unit he will be homeless; that there is one other manufactured home in the area; and that the property behind the Property is wooded and contains approximately 10 acres.

Jack Gumm was sworn in and testified in opposition to the application and stated that he has lived across the road from the Property since the 1970's; that Helen Peterson grew up on the Property; that the Applicant moved onto the Property in the 1990's; that Mr. Gumm maintained the Property for Ms. Peterson prior to the Applicant's occupancy of the Property; that the Applicant has not always maintained the Property; that he feels the unit should be replaced with a newer model; that the current unit is in poor shape; that a newer home would be an improvement; and that he would like the unit to be skirted as the older manufactured home was skirted.

In rebuttal, Mr. Showell, testified that he plans to paint the unit and have the required skirting around that unit.

The Board found that 2 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 Special Use Exception Application No. 11056 based on the record made at the public hearing because the use does not substantially affect adversely the uses of the adjacent and neighboring properties. Mr. Mills included in his motion a condition that the older manufactured home be removed from the Property and that the newer manufactured home be skirted.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the special use exception be **granted for the reasons stated with the stipulation that the existing manufactured home be removed and the newer manufactured home be skirted**. 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. 11057 – Dorothy P. Palmer – south of Route 54 (Lighthouse Road) west of Cleveland Avenue, being Lot 41 Block 4 within Cape Windsor development. (Tax Map I.D. 5-33-20.14-52.00)

A variance from the side yard and rear yard setback requirements.

Mrs. Isaacs presented the case. Doug Tenly, of Tenly's Home Repair, was sworn in and testified requesting a 5-foot variance from the required 10-foot side yard setback requirement, a 1-foot variance from the required 20-foot rear yard setback requirement for a proposed dwelling, and an 8-foot variance from the required 10-foot side yard setback requirement for an air conditioning unit; that the existing manufactured home is 5-foot from the property line. Mr. Tenly testified that the Applicant intends to construct a dwelling on the Property; that the proposed dwelling is a Beracah home; that the proposed dwelling is slightly wider than the existing manufactured home; that there is no uniqueness to the lot; that the variance will allow for off-street parking; that the variance will not be detrimental to public welfare; that the variance is the minimum variance to afford relief; that the variance will not alter the character of the neighborhood; that the development does not permit parking on the street; that the air conditioning unit can be placed on the opposite side of the property; that the proposed dwelling is a standard size available and cannot be modified; that the proposed location of the air conditioning unit is the same side as the location of the existing unit; and that the proposed air conditioning unit may be able to be moved to the other side of the home.

The Board found that no parties appeared in support of or 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.

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

At the conclusion of the public hearings, the Chairman referred back to this case. Mr. Rickard stated that he would move that the Board recommend approval in part and denial in part of Variance Application No. 11057. Mr. Rickard moved that the requested 1-foot rear yard variance and the 5-foot side yard variance requested for the proposed dwelling 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 variance for the proposed dwelling will enable reasonable use of the property;
3. The variance, if granted will not alter the essential character of the neighborhood; and
4. The variance sought is the minimum variance 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 upon the record made at the public hearing and for the following reasons:

1. The difficulty is 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, seconded by Mr. Workman, and carried unanimously that the variance be **granted for the variances pertaining to the proposed dwelling and denied for the variances pertaining to the proposed air conditioning unit for the reasons stated.** Motion carried 4 - 1.

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

Case No. 11058 – Flexera, Inc. – north of Road 368 (Beaver Dam Road) located in common area “B” within Forest Reach development. (Tax Map I.D. 1-34-16.00-296.03)

A variance from the front yard setback requirement.

Mrs. Isaacs presented the case. Finn McCabe was sworn in and testified requesting a 39.3-foot variance from the required 40-foot front yard setback requirement for an existing solar panels. Mr. McCabe submitted exhibits in support of the Application. Mr. McCabe testified that a discrepancy existed during the permitting process in reference to the setback requirements; that the property is unique in shape as it consists of two triangular shaped parcels; that the property cannot be developed in strict conformity; that the solar panels are owned by the Homeowners Association of Forest Reach; that the difficulty was not created by the Applicant; that the variance will enable reasonable use of the property; that the panels have been on the lot for 2 years; that it will not alter the character of the neighborhood; that there will be no negative effect on surrounding properties; and that a setback requirement of 5 feet was indicated on the building permit at the time of construction.

William Riffell, President of the Homeowners Association, was sworn in and testified about the application. Mr. Riffell testified that he agrees with the Applicant's testimony and is not in opposition to the Application but he does have some concerns; that his main concern is Beaver Dam Road is scheduled to be widened; that the existing solar panels will only be 8 feet from the proposed bike path; that he is concerned for public safety and possible damage to the array; that there have been no problems in the 2 years the solar panels have been in place; that the Homeowners Association is against moving the panels at their cost; and that the Association would prefer to leave the solar panels in their current location rather than pay to have them moved.

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

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

Mr. Mills stated that he would move that the Board recommend approval of Variance Application No. 11058 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The property is unique in shape;
2. The variance will enable reasonable use of the property;
3. The difficulty was not created by the Applicant as there was a miscommunication between the Applicant and Sussex County in the permitting process as to the setback areas;
4. The variance, if granted will not alter the essential character of the neighborhood; and
5. The variance sought is the minimum variance 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. Hudson – yea, Mr. Mills – yea, and Mr. Callaway – yea.

Case No. 11059 – Pat Williamson & Harold Smith – south of Route 1 (Coastal Highway) northwest of Delaware Avenue, being Lot K-70 within Sea Air, a mobile home park. (Tax Map I.D. 3-34-13.00-310.00 Unit 3415)

A variance from the separation requirement between units in a mobile home park.

Mrs. Isaacs presented the case. Pat Williamson and Harold Smith were sworn in and testified requesting a 4.2-foot variance from the required 20-foot separation requirement between units in a mobile home park for an existing metal awning over a concrete pad. Mr. Smith testified that the Property is located in the Sea Air Mobile Home Park; that the awning located on the Property measures 11 feet x 15 feet; that the lot is only 40 feet wide making it unique in size; that the existing concrete pad located on the Property has been unusable without the awning due to the sun; that the awning provides needed shade to the area; that the existing addition was built

in the 1980's and is only 15 feet from the adjacent unit; that the awning is 16 feet from the adjacent unit; that he obtained the building permit and constructed the awning; and that he thought the separation requirement was 15 feet.

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 Variance Application No. 11059 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The property is unique due to existing non-conforming structures;
2. The variance will enable reasonable use of the property;
3. The difficulty was not created by the Applicants;
4. The variance, if granted will not alter the essential character of the neighborhood; and
5. The variance sought is the minimum variance to afford relief.

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

Case No. 11060 – Michael J. Cummings – south of Route 54 (Lighthouse Road) south of Maple Lane, being Lot 30 within Keen-Wik development. (Tax Map I.D. 5-33-19.16-48.00)

A variance from the side yard setback requirement.

Mr. Sharp stated to the Board that the Applicant has been a client in the past and wanted to advise the Board that, if the Board believed that a conflict existed, they may want to defer legal questions to Vince Robertson, Esquire.

Mrs. Isaacs presented the case. Michael Cummings, of Miken Builders, Jim Coffey, Project Manager, and Bob Bratt, property owner were sworn in and testified requesting a 3.8-foot variance from the required 10-foot side yard setback requirement for a proposed addition. Mr. Cummings submitted eight (8) letters in support of the Application. Mr. Cummings testified that the lot is uniquely shaped; that the design of the addition is based on the Homeowners Association setback requirement of 5 feet; that the Homeowners Association approves of this Application; that the Property is irregularly shaped; that the Property is only accessible at its narrowest point and the Applicant has difficulty maneuvering vehicles on the Property; that the variance will allow the Applicant to maneuver vehicles on the Property more easily; that the variance will enable reasonable use of the property; that the variance will not alter the essential character of the neighborhood; that the variance won't impair use of neighboring or adjacent properties; that the variance is not detrimental to public welfare; that it represents the least modification possible of the regulation in issue; that the variance is the minimum variance to afford relief; and that the addition is a proposed 1,000-square-foot attached garage.

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

Mrs. Isaacs stated that 8 letters of support were submitted to the Board.

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11060 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The property is unique in shape;
2. The variance will enable reasonable use of the property;
3. The variance, if granted will not alter the essential character of the neighborhood;
4. The variance will not be detrimental to the public welfare;
5. The variance sought is the minimum variance to afford relief; and
6. The requested variance represents the least modification possible of the regulation in issue.

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

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

Case No. 11061 – William Noel and Gail Noel – south of Route 54 (Lighthouse Road) east of Walnut Lane, being Lot 5 within Keen-Wik development. (Tax Map I.D. 5-33-19.12-103.00)

A variance from the side yard setback requirement.

Mrs. Isaacs presented the case. Woody Noel and David Noel were sworn in and testified requesting a 1.5-foot variance from the required 10-foot side yard setback requirement for a proposed addition, porch and deck; that the proposed addition will be for a first floor bedroom. Woody Noel testified that the need for the addition is due to the Applicants' age; that the bedroom in the home is currently located on the second floor; that the bedroom in the home as proposed will be located on the first floor; that the proposed addition meets the Homeowners Association's setback requirements; that the variance will not alter the character of the neighborhood; and that the variance will enable reasonable use of the property. Woody Noel submitted a letter of support from the Homeowners Association. David Noel testified that the proposed size of the addition is required to keep the bedroom from being too narrow and unusable.

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

Mrs. Isaacs stated that 1 letter of support was submitted to the Board.

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11061 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 variance, if granted will not alter the essential character of the neighborhood; and
4. 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 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. 11062 – Paul M. Pennachi and Cynthia M. Pennachi – north of Route 16 (Broadkill Road) southeast corner of Bayshore Drive and Georgia Avenue, being Lot 14 Block G within Broadkill Beach development.(Tax Map I.D. 2-35-3.16-74.00)

Variances from the front yard and corner side yard setback requirements.

Mrs. Isaacs presented the case. Cynthia Pennachi and Paul Pennachi were sworn in and testified requesting a 0.5-foot variance from the required 30-foot front yard setback requirement, a 2.9-foot variance from the required 15-foot corner side yard setback requirement for a proposed dwelling on an existing foundation, and an 8.7-foot variance from the required 15-foot side yard setback requirement for a porch. Ms. Pennachi testified that the Property measures 50 feet x 100 feet; that the setback requirements eliminate the use of one-half the Property; that the Applicants removed the prior dwelling because it could not be salvaged; that the existing foundation was not altered; that the proposed dwelling will be constructed on the existing foundation; that the difficulty was not created by the Applicants; that the variances will not alter the character of the neighborhood; that the variances represent the least modifications possible; that a variance was granted for the previous dwelling; that they plan to extend the existing porch; that they purchased the property in 2010; and that the proposed deck will meet the setback requirements. Mr. Pennachi testified that the Applicants intend to rebuild the entire house except for the foundation and the porch.

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. 11062 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The property is unique in size and the circumstances are unique because the existing dwelling could not be repaired;
2. The difficulty was not created by the Applicants;
3. The variances will enable reasonable use of the Property;
4. The variances, if granted will not alter the essential character of the neighborhood as the house has been on the Property a long time; and
5. 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. Workman – yea, Mr. Rickard – yea, Mr. Mills – yea, and Mr. Callaway – yea.

Case No. 11063 – Michael V. Erixson – northeast of Route 13A (Seaford Road) approximately 500 feet north of Road 485A (Easter Lane). (Tax Map I.D. 1-32-7.00-5.00)

A special use exception to retain a single wide manufactured home on less than ten (10) acres.

Mrs. Isaacs presented the case. Michael Erixson was sworn in and testified requesting a special use exception to retain a single wide manufactured home on less than ten (10) acres; that he is purchasing 2 acres of an existing 13 acre parcel; that the manufactured home will remain on the 2 acre parcel; that the manufactured home is compliant with all setback requirements; that the 1986 manufactured home has been on the property for 4 years; that he plans to build a dwelling within the next 4 years; and that the manufactured home will not adversely affect the surrounding and adjacent properties.

The Board found that 2 parties appeared in support of the application.

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

Mr. Rickard stated that he would move that the Board recommend approval of Special Use Exception Application No. 11063 for the requested special use exception base 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. Rickard, 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. Mills – yea, Mr. Hudson – yea, Mr. Workman – yea, Mr. Rickard – yea, and Mr. Callaway – yea.

Case No. 11064 – Donald F. Dailey, Jr. – south of Route 54 (Lighthouse Road) west of Cleveland Avenue, being Lot 40 within Cape Windsor development. (Tax Map I.D. 5-33-20.14-53.00)

A variance from the side yard, front yard, and rear yard setback requirements.

Mrs. Isaacs presented the case. Donald Dailey, Jr. was sworn in and testified requesting a 4.7-foot variance from the required 5-foot side yard setback requirement for an existing shed, a 1.1-foot variance from the required 5-foot front yard setback requirement and a 5.5-foot variance from the required 10-foot side yard setback requirement for an existing manufactured home, a

4.3-foot variance from the required 5-foot side yard setback requirement for an existing deck, and a 5.6-foot variance from the required 20-foot rear yard setback requirement for an existing deck. Mr. Dailey testified that he purchased the property 20 years ago; that he has recently placed a portable shed on the property for additional storage; that a neighbor advised him that no permits were needed for a portable building; that he applied for the variance after receiving notice of violation; that in 1990 a deck was built on the property after obtaining a variance; that the Homeowners Association at that time advised him he would need building permits and a variance; that the previous owner placed the manufactured home on the property and he assumed that the home was in compliance with the setback requirements, especially after the issue was not raised when he applied for the variance for the deck; that he was not aware the manufactured home needed any variances until he applied for the variance for the shed; that the existing home is wide; that his neighbor is in support of the application and submitted a letter; that the lot is unique in size as it is narrow; that the property cannot be developed in strict conformity; that the difficulty was not created by the Applicant; that the variances will not alter the character of the neighborhood; that the variances requested are the least modifications of the regulation possible; and that there have been numerous variances granted in the development.

Doug Tenly was sworn in and testified in opposition to the application and stated that he is representing the adjacent property owner who has an application before the Board this evening; that the neighbor believed the variance request would be a much smaller shed; that the shed doors swing open over the property line; that the neighbor is concerned with the water run off the shed will create; and that the neighbor has fire safety concerns. Mr. Tenly submitted pictures showing the location of the shed.

In rebuttal, Donald Dailey, Jr. stated that when he spoke to his neighbor she had no objection to the proposed shed; that the shed is used to store his motorcycle, gas can and a small workshop area; that a smaller shed would not suit his needs; that the size of the shed was altered at an extra cost to fit on the lot; and that he was given wrong information from the Homeowners Association.

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

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

Mr. Rickard stated that he would move that the Board recommend approval for Variance Application No. 11064 for the requested 1.1-foot front yard variance and the 5.5-foot side yard variance for the existing manufactured home, the 4.3-foot side yard variance for the existing deck, and the 5.6-foot rear yard variance for an existing deck based on the record made at the public hearing and for the following reasons:

1. The property is unique in size and structures have existed on lot for 20 years;
2. The variances will enable reasonable use of the property;
3. The variances, if granted will not alter the essential character of the neighborhood;
and
4. The variances sought are the minimum variances to afford relief.

Mr. Rickard stated that he would move that the Board recommend denial for Variance Application No. 11064 for the requested 4.7-foot side yard variance for the existing shed based on the record made at the public hearing and for the following reasons:

1. The difficulty was created by the Applicant.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried that the variance be **granted for the existing manufactured home and decks and denied for the existing shed for the reasons stated**. Motion carried 4 – 1.

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

Case No. 11065 – Robert Semone – northeast of Road 357 north of Bayberry Court, being Lot 51 within Quillen’s Point development. (Tax Map I.D. 1-34-5.00-363.00)

A variance from the side yard setback requirement.

Mrs. Isaacs presented the case. Robert Semone and Steven Doyle were sworn in and testified requesting a 5.6-foot variance from the required 10-foot side yard setback requirement for a proposed second story addition to an existing attached garage. Mr. Semone testified that the existing garage was built 10 years ago and that he would like to add a room over the garage. Mr. Doyle testified that the Board approved a variance for the property in 2003; that the existing roof line will not change; that he obtained a building permit for the construction; and that the lot is irregular in shape.

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

Mrs. Isaacs stated that the office received 4-letters in support of the application.

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11065 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The property is irregular in shape making it unique;
2. The variance will enable reasonable use of the property;
3. The variance, if granted will not alter the essential character of the neighborhood; and
4. The variance sought is the minimum variance 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.

OLD BUSINESS

Case No. 11044 – Deborah Seifrit & Stella Greenberg – south of Route 277 (Angola Road) east of Angola Road East, being Lot 7 & ½ Lot 8 within Angola by the Bay development. (Tax Map I.D. 2-34-11.16-97.00)

A variance from the side yard and front yard setback requirements.

This case was left open at the September 24, 2012 hearing to allow the Applicant to appear to confirm testimony or submit an affidavit.

Mr. Sharp submitted to the Board an affidavit from Deborah Seifrit which confirmed the facts presented by Daniel Myers on September 24, 2012, as true and correct to the best of knowledge and belief.

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. 11044 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The property is unique due to its curved shape;
2. The difficulty was not created by the Applicants;
3. The variances, if granted will not alter the essential character of the neighborhood;
4. The variances sought are the minimum variances to afford relief; and
5. The variances represent the least modification possible of the regulation in issue.

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

Case No. 11047 – Softball World LLC – south of Route 9 (Lewes Georgetown Highway) 2,300 feet west of Road 321 (Park Avenue). (Tax Map I.D. 1-35-15.00-82.00)

A variance for an additional ground sign and a variance from the required square feet for an on-premise ground sign.

Mr. Sharp stated to the Board that the Applicant has been a client in the past and wanted to advise the Board that if the Board believed a conflict of interest exists, they may want to defer legal questions to Vince Robertson.

Mrs. Isaacs advised the Board that this application was left open on September 24, 2012 to allow the Applicant more time to prepare his case. Wallace Townsend was sworn in and testified requesting a variance for an additional ground sign and a 40-square-foot variance from the required 200-foot square-foot requirement for an on-premise ground sign. Mr. Townsend

testified that the sign is to advertise the Halloween activities to be held on the property; that the site is unique due to the fact that the site of the Halloween activities is approximately 2,000-feet from Route 9; that the Property consists of approximately 93 acres; that the site is surrounded by trees; that without the sign the site could not be seen from the road; that the sign will not alter the character of the neighborhood; that the sign is not detrimental to public welfare; that the sign will enable reasonable use of the property; and that the variance requested is the minimum variance to afford relief.

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 Variance Application No. 11047 for the requested variances based on the record made at the public hearing and for the following reasons:

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

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

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

Case No. 11048 – Lewes Auto Mall, LLC – east of Route 1 (Coastal Highway) south of Marsh Road. (Tax Map I.D. 3-34-6.00-33.00)

A variance from the landscape buffer required in a highway corridor overlay zoning district.

The Board discussed the case which has been tabled since September 24, 2012.

Mr. Mills stated that he would move that the Board recommend approval of Variance Application No. 11048 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The use of the property creates a uniqueness;
2. The variance is necessary to enable reasonable use of the Property;
3. The variance is not detrimental to the public welfare;
4. The difficulty was not created by the Applicant;
5. The variance will not alter the essential character of the neighborhood; and
6. The variance sought is the minimum variance 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. Workman – yea, Mr. Hudson – yea, Mr. Mills – yea, Mr. Rickard – yea, and Mr. Callaway – yea.

Case No. 11049 – Joann M. Darlington – northwest of Route 16 (Broadkill Road) northwest of Georgia Avenue, being Lot 6 Block H within Broadkill Beach, North Shores development. (Tax Map I.D. 2-35-3.16-59.00)

A variance from the front yard and side yard setback requirements.

The Board discussed the case which has been tabled since September 24, 2012.

Mrs. Isaacs submitted a survey to show the neighbor's property is in compliance.

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11049 for the requested variance based on the record made at the public hearings and for the following reasons:

1. The property is unique in size;
2. The variance will enable reasonable use of the property;
3. The variance, if granted will not alter the essential character of the neighborhood; and
4. The variance sought is the minimum variance 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.

Meeting Adjourned 10:30 p.m.