

## MINUTES OF OCTOBER 3, 2016

The regular meeting of the Sussex County Board of Adjustment was held on Monday, October 3, 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 Dale Callaway presiding. The Board members present were: Mr. Dale Callaway, Mr. John Mills, Mr. Jeff Hudson, Mr. Brent Workman, and Mr. Norman Rickard, with James Sharp – Assistant County Attorney, and staff members Mr. Lawrence Lank – Director of Planning and Zoning, and Mr. Dan Brandewie – Planner I.

The Pledge of Allegiance was led by Mr. Callaway.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to move Case No. 11854 – James Wharton to the beginning of the public hearings and approve the Revised Agenda as circulated. Motion carried 5 – 0.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously to approve the Minutes and Finding of Facts for August 1, 2016 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. 11854 – James Wharton** – seeks a variance from the front yard setback requirement (Section 115-25C 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.

Mr. Lank stated that the Office of Planning and Zoning advertised the hearing incorrectly, therefore it must be re-advertised and will be scheduled for November 7, 2016.

**Case No. 11848 – Michael J. Snedaker and Layne B. Snedaker** – seek a variance from the front yard setback requirement (Section 115-25C of the Sussex County Zoning Code). The property is located on the east side of Derrickson Drive approximately 512 feet south of Old Mill Bridge Road. 911 Address: 36379 Derrickson Drive, Selbyville. Zoning District: AR-1. Tax Map No.: 5-33-12.00-50.00.

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

Michael Snedaker & Layne Snedaker were sworn in to testify about the Application. Ray Tomasetti, Jr., Esquire presented the case to the Board on behalf of the Applicants and submitted a picture for the Board to review.

Mr. Tomasetti stated that the Applicants are requesting a variance of 1.2 feet from the thirty (30) feet front yard setback requirement for an existing attached garage; that the Applicants purchased the Property in May 2016; that the dwelling with the attached garage was built in 1982; that the Certificate of Compliance was issued at that time; that a survey completed for settlement showed the encroachment; that the Property is unique in size and shape; that the Property cannot be developed in strict conformity with the Sussex County Zoning Code; that the dwelling and garage were placed on the Property by a prior owner; that the exceptional practical difficulty was not created by the Applicants; that the variance does not alter the essential character of the neighborhood; that there have been other variances granted in the neighborhood; and that the variance is the minimum variance necessary to afford relief.

Mr. Snedaker, under oath, affirmed the statements made by Mr. Tomasetti and testified that the rear yard has some flooding issues; that the front yard property line meets with the edge of Derrickson Drive; and that there have been no additions made to the dwelling since 1982.

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

Mr. Mills moved to approve Variance Application No. 11848 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 irregular shape;
2. The variance is necessary to enable reasonable use of the Property;
3. The exceptional practical difficulty was not created by the Applicants;
4. The variance will not alter the essential character of the neighborhood;
5. The use is not detrimental to the public welfare; and
6. The variance sought is the minimum variance necessary to afford relief.

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

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

**Case No. 11849 – Harry Keswani** – seeks a variance from the minimum off-street parking space for a hotel requirement (Section 115-162A and 115-80B(1) of the Sussex County Zoning Code). The property is located on the northeast corner of Parsonage Road and Coastal Highway (Route 1). 911 Address: 35863 Parsonage Road, Rehoboth Beach. Zoning District: C-1. Tax Map No.: 3-34-13.00-5.00.

Mr. Lank presented the case and read one (1) letter of opposition into the record and stated that the Office of Planning and Zoning received no correspondence in support of the Application.

Harry Keswani and Mark Davidson, of Pennoni Associates, Inc. were sworn in and testified requesting a variance of fifteen (15) parking spaces from the required ninety-three (93) parking spaces for the proposed hotel.

Mr. Davidson testified that Mr. Keswani is a representative of the Applicant; that the Applicant purchased the Property in 2011; that the Property is the site of the existing Airport Motel which houses fifteen (15) rooms; that the Airport Hotel was built in the early 1970s; that the Property is located just off of Route 1; that the Sussex County Code requires 1.5 spaces per hotel room and 1 space per 3 employees; that the proposed hotel will be smaller than most hotels along the Route 1 corridor; that the Applicant intends to have a maximum of nine (9) employees at a time; that most of the other hotels along Route 1 have at least eighty (80) rooms; that the Property is triangularly shaped and consists of 1.32 acres; that the Property is wide at the front yard and narrows to a point in the rear yard; that the shape of the Property has created a unique situation for the Applicant in designing the hotel and in arranging for parking for the hotel; that the rear of the Property is unusable because it is too narrow; that there is also a dedicated easement to the neighboring property at the rear of the Property; that the Property cannot otherwise be developed; that the Applicant intends to replace the Airport Hotel with a Days Inn; that the hotel will be located in the front of the Property and will consist of four (4) stories; that the proposed building meets setback requirements and the State Fire Marshal requirements; that the proposed hotel is also odd in shape to meet the setback requirements; that the Property is zoned commercial; that the variance will not alter the essential character of the neighborhood because there is already an existing motel on the site; that a restaurant, diner, and other commercial uses are located nearby; that the Applicant has met with the Delaware Department of Transportation (“DelDOT”) to arrange for the access to and from the site; that there will be seventy-eight (78) spaces available for the proposed sixty (60) rooms; that three (3) parking spaces will be dedicated to the employees; that the hotel industry standard for parking is one (1) space per room; that other hotels in the area have fewer parking spaces than the Sussex County Code requires; that the existing motel and dwelling will be removed; that the proposed hotel will not exceed the forty-two (42) foot maximum height requirement; that the Applicant explored having fewer rooms in the hotel but determined that new hotel would not be economically viable with fewer rooms; that the Applicant had to meet stormwater regulations, Fire Marshal regulations, and DelDOT regulations as well and those regulations further limited the area available for parking; that there will be four (4) handicapped spaces; that the proposed hotel is strictly for lodging only; that there will be no restaurant, conference rooms, or banquet rooms; that there have not been previous complaints made about the Property; that the Property is surrounded by privacy fencing and that fencing will remain; and that the neighboring properties are used commercially and for multi-family housing.

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

Mr. Mills moved to approve Variance Application No. 11849 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 and the shape makes it difficult to lay out parking spaces;

2. The Property has been used as a hotel for many years;
3. The variance is necessary to enable reasonable use of the Property;
4. The exceptional practical difficulty was not created by the Applicant;
5. The Applicant did not create the size and shape of the lot;
6. The variance will not alter the essential character of the neighborhood;
7. The variance will not be detrimental to the public welfare; and
8. The variance sought is the minimum variance necessary 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. Hudson – yea, Mr. Rickard – yea, Mr. Workman - yea, Mr. Mills - yea, and Mr. Callaway – yea.

**Case No. 11850 – Andrew Lewandowski** – seeks variances from the side yard setback requirement (Section 115-83.8B(2) of the Sussex County Zoning Code). The property is located on the west side of Nassau Road approximately 45 feet north of New Road. 911 Address: 32172 Nassau Road, Lewes. Zoning District: CR-1. Tax Map No.: 3-34-5.00-73.00.

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

Andrew Lewandowski and Ken Christenbury, P.E. of Axiom Engineering, LLC, were sworn in to testify about the Application. John Sergovic, Esquire, presented the case on behalf of the Applicant and submitted an exhibit booklet for the Board to review.

Mr. Sergovic stated that the Applicant is requesting a variance of fifteen (15) feet from the twenty (20) feet side yard setback requirement on the southeast side for a proposed storage facility and office; that the Property is zoned CR-1; that the Property is narrow as it is approximately 84 feet wide in the front but narrows to 65 feet in the rear; that the odd shape of the Property and the stormwater management areas limit the developable area of the lot; that the Property to the northwest is owned by the State of Delaware and is likely to never be developed residentially; that the neighboring property is zoned AR-1 but it is the last property on the Route 1 side of Nassau Road that is zoned AR-1; that a detached garage was located less than two (2) feet from the southeast property line and has been removed; that the Property is unique because it is a narrow lot for a commercial property; that the Applicant acquired the Property after it was zoned CR-1; that the Applicant purchased the Property with the intent of building an adequate storage facility on the CR-1 zoned property; that the Applicant's business already has a storage facility and office on Nassau Road and the business is expanding; that the adjoining properties are zoned AR-1 which increases the side yard setback requirement to twenty (20) feet; that the Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code; that the exceptional practical difficulty was not created by the Applicant; that the proposed storage facility will be five (5) feet from the southeast side property line; that, if the building was placed on the other side of the Property, a similar variance would be needed there as well; that the neighbor to the southeast consented to the proposed variance; that the proposed storage facility will not alter the essential

character of the neighborhood since the neighborhood is converting from residential to commercial in nature; that the variance is the minimum variance necessary to afford relief; and that the additional storage facility and office space is needed due to the growth of the Applicant's business

Mr. Lewandowski, under oath, affirmed the statements made by Mr. Sergovic. Mr. Lewandowski testified that his business is growing and additional space for his business is needed.

Mr. Christenbury testified that the Property is located near the Nassau Bridge and Route 1; that the area is trending commercial; that the only residential property owner in the area has consented to the Application; that the garage on the Property was on the lot when the Applicant acquired the Property; that the Property is unusually shaped; that a drainage swale on the opposite side of the Property and the storm water management area to the rear of the Property also limit the available space on the Property to place the building; that the proposed storage area will consist of 2,800 square feet and the office space will consist of 1,200 square feet; that the Property cannot accommodate a building that is 40 feet wide without a variance; that storage buildings are typically 40 feet wide; that a narrower building would then require that the Applicant build a longer building but that would encroach into the stormwater management area; and that there will likely be an open swale on the north side of the Property to drain stormwater to the rear of the Property.

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

Mr. Rickard moved to approve Variance Application No. 11850 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The Property is narrow and 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;
5. The surrounding area is trending commercial; and
6. The variance sought is the minimum variance necessary to afford relief.

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

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

**Case No. 11851 – James P. Shugart** – seeks a variance from the side yard setback requirement (Section 115-42B of the Sussex County Zoning Code). The property is located on the southeast side of Canvasback Road approximately 620 feet northeast of Swann Drive. 911 Address: 36984 Canvasback Road, Selbyville. Zoning District: GR. Tax Map No.: 5-33-12.16-407.00.

Mr. Lank 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 P. Shugart was sworn in and testified requesting a variance of 3.5 feet from the ten (10) feet side yard setback requirement on the south side for a proposed roof over an existing deck; that he built the two-story dwelling in 2013; that the Property is located in Swann Keys; that he moved to the Property permanently in 2014; that, in 2013, he was granted a similar variance for a similar roof needed over an existing entrance on the first floor; that the proposed second floor roof will be constructed with the same material and by the same builder as the existing first floor deck; that the proposed roof will provide shelter when entering and exiting the dwelling at the second floor level; that the covered entrances protect against the elements; that the neighbors have no objection to the Application; that the proposed roof will not encroach farther into the side yard setback than the existing structures; that there are steps leading to the first floor landing and steps leading to the second floor landing; that he intends to place a cover on the deck in the rear yard as well but that deck is within the building envelope; and that he does not intend to enclose the deck.

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

Mr. Rickard moved to approve Variance Application No. 11851 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The Property is unique as it is only forty (40) feet wide;
2. The Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code;
3. The variance is necessary to enable reasonable use of the Property;
4. The variance will not alter the essential character of the neighborhood; and
5. The variance sought is the minimum variance necessary to afford relief.

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

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

**Case No. 11852 – Anthony Balsamo** – seeks variances from the front yard, side yard, and rear yard setback requirements (Sections 115-25C of the Sussex County Zoning Code). The property is located on the north side of Hayes Avenue approximately 269 feet west of Jefferson Avenue. 911 Address: None Available. Zoning District: AR-1. Tax Map No.: 5-33-20.19-55.00.

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

Anthony Balsamo was sworn in and testified requesting a variance of seven (7) feet from the thirty (30) feet front yard setback requirement for a proposed dwelling, a variance of four (4) feet from the ten (10) feet side yard setback requirement on the west side for a proposed outside shower, and a variance of five (5) feet from the twenty (20) feet rear yard setback requirement for a proposed deck and porch; that he is building a new house for a client; that the Applicant is trying

to use as much of the Property as possible; that the Property is narrow and shallow; that the Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code; that it is difficult to build a decent sized house with porches within the setback areas; that Cape Windsor is a nearby community with setbacks similar to what is being proposed here; that the owner of the Property was unaware of the setback requirements when they purchased the Property; that there are three (3) story condos in the area; that the lot to the west is vacant; that the variances will not alter the character of the neighborhood; that the neighbors support the Application and are happy to see the lot developed; that the variances requested are the minimal variances needed; that there will be adequate space on the Property for parking; that the proposed dwelling will measure 30 feet wide by 56 feet deep and will not fit on the lot without variances; that the proposed dwelling will be one (1) story with dormers; that the proposed dwelling is similar to other dwellings in the neighborhood; that the Property is currently vacant; that the dwelling will have a block foundation; that the outside shower will be enclosed with vinyl material; that the dwelling is not being placed on pilings; that the first floor deck will be covered and the second floor of the deck will serve as a balcony; that the edge of Hayes Avenue is not even with the property line; that the stairs in the side yard will not be covered; that the outside shower cannot be placed under the dwelling; that the crawl space will be approximately 4 feet tall; that he did not consider a detached shed on the Property for storage; that the proposed storage area will give access to the crawl space and will be considered part of the dwelling structure; and that there are no flooding issues on the Property.

Theresa Pyle was sworn in and testified in opposition to the Application and testified that she lives five (5) lots down from the Applicant's lot; that the lots are small but the Applicant was aware of the lot size and the setback requirements when he purchased the lot; that the reduction of the setback areas will result in the loss of privacy while increasing parking and fire hazard concerns; and that Hayes Avenue is the Maryland / Delaware State line and the properties across the street are in Maryland.

Charles Pyle was sworn in and testified in opposition to the Application and testified that he has owned Property since the Edgewater Acres development was created; that there have never been manufactured homes in the development; that the majority of dwellings in the area are on five (5) block high foundations; that the community is trying to maintain a common house size in the community and the existing dwellings in the neighborhood are similar in size; and that a larger dwelling would negatively affect the neighborhood by decreasing property values.

Frank Perry was sworn in and testified in opposition to the Application and testified that the proposed dwelling would affect the views of the lagoon; and that there have been no variances granted in the rear yard because the view would be affected.

Charles Meade was sworn in and testified in opposition to the Application and testified that he has been a resident for thirty-one (31) years; that he developed his property within the setback areas; that he believes the dwelling should be built within the setback requirements; that all the lots measure 50 feet by 100 feet and have been developed in strict conformity with the Sussex County Zoning Code; and that the variances would alter the character of the neighborhood.

Vince Perry was sworn in and testified in opposition to the Application and testified that he lives nearby; that he feels that the proposed dwelling is too large and will block views of the water; and that the proposed dwelling will create parking issues and fire hazards.

Richard Bombay was sworn in and testified in opposition to the Application and testified that he owns the adjacent Lot 8 – which is vacant; that flooding is a common occurrence on the lots including the Applicant’s lot; that the Property can be developed in strict conformity with the Sussex County Zoning Code; that there are parking issues in the development; and that the dwellings in the area are similar in size.

Daniel Nedwick was sworn in and testified in opposition to the Application and testified that he owns Lot 6 which is to the east of the Property; that he objects to the Application for the same reasons that have been stated; and that he was unaware the Applicants were seeking variances until he was notified by the County.

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

The Board found that ten (10) parties appeared in opposition to the Application.

Mr. Rickard moved to deny Variance Application No. 11852 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The Property can be developed in strict conformity with the Sussex County Zoning Code;
2. The exceptional practical difficulty is being created by the Applicant.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the variances be **denied for the reasons stated**. Motion carried 5 – 0. Mr. Mills noted that the variances would also alter the essential character of the neighborhood.

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

**Case No. 11853 – Caroline Carroll** – seeks variances from the front yard and side yard setback requirements (Section 115-42B of the Sussex County Zoning Code). The property is located on the north side of Clover Lane approximately 415 feet west of Oak Meadow Drive. 911 Address: 27556 Clover Lane, Millsboro. Zoning District: GR. Tax Map No.: 2-34-29.00-170.00.

Mr. Lank presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application. Mr. Lank stated that a variance was granted for the porch in 1992. Mr. Lank advised the Board that the variance granted at that time was based on a sketch and not a survey.

Dan Carroll and Martin Carroll were sworn in and testified requesting a variance of 7.9 feet from the thirty (30) feet front yard setback requirement for an existing deck and a variance of



four (4) feet from the ten (10) feet side yard setback requirement on the northeast side for an existing porch.

Dan Carroll testified that the Property is owned by his mother; that his mother now lives out of state in an assisted living facility and the Property needs to be sold; that the survey completed for settlement showed the encroachments; that the structures have existed on the Property for over twenty-four (24) years; that his father constructed the porch; that they were unaware of any encroachments until the survey was completed; that the variances do not affect the character of the neighborhood; that there have been no complaints from the neighbors; that the variances are the minimum to afford relief; that the variance granted in 1992 was based on a drawing and not a survey; that the front deck has been on the Property since the house was built; that the paving of Clover Lane goes to the front property line; that the existing deck gives access to the existing sliding doors to the dwelling; and that there have not been any changes since the structures were built.

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

Mr. Mills moved to approve Variance Application No. 11853 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The Applicants have inherited the Property creating a unique situation;
2. The variances are necessary to enable reasonable use of the Property;
3. The exceptional practical difficulty was not created by the Applicant;
4. The variances will not alter the essential character of the neighborhood;
5. The use is not detrimental to the public welfare; and
6. The variances sought are the minimum variances necessary to afford relief.

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

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

**Case No. 11855 – Perdue Agri Business** – seeks a special use exception to place a manufactured home type structure as an office for five (5) years (Sections 115-23A and 115-210A(1) of the Sussex County Zoning Code). The property is located at the south end of Enviro Way approximately 0.54 miles west of Seaford Road. 911 Address: 28338 Enviro Way, Seaford. Zoning District: AR-1. Tax Map No.: 1-32-11.00-41.00.

Mr. Lank presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application. Mr. Lank read a letter of no objection from the Delaware Department of Transportation (“DelDOT”) into the record that was dated October 3, 2016.

Heather Smith, James Muir, and Tara Ruch were sworn in and testified requesting a special use exception to place a manufactured home type structure as an office for five (5) years. Ms. Smith submitted an exhibit to the Board for review.

Ms. Smith testified that the Applicant proposes to place a modular unit adjacent to the existing agribusiness building; that the proposed unit will measure 23.5 feet by 60 feet; that the unit will be used to gain easier access to the scale system; that the unit does not produce any additional traffic to and from the site; that two to three employees will use the unit for their offices; that the site is 124 acres in size; and that the Applicant is also considering placing a pole building on the Property as well.

Mr. Muir testified that, due to time constraints, the Applicant is looking to place a manufactured home structure on the site; that there is a pressing need for the unit; that the unit will have offices, a meeting area, and a break room available to the employees; that the unit will be used for the employees who work on the scales; that the unit will satisfy their needs until a permanent building can be constructed; that the employees who use the scale currently work in the existing building but there is not enough room to accommodate them; that the surrounding property is agricultural and rural; that the proposed unit cannot be seen from the road; that there have been no complaints from neighboring properties; and that the use will not substantially adversely affect the uses of the neighboring and adjacent properties.

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

Mr. Mills moved to approve Special Use Exception Application No. 11855 for the requested special use exception for a period of five (5) years based on the record made at the public hearing because the use will not substantially adversely affect the uses of the neighboring and adjacent properties.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the special use exception be **granted for a period of five (5) years 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.

### **OLD BUSINESS**

**Case No. 11831 – Kent Schoch** – seeks a variance from the front yard setback requirement (Sections 115-42B, 115-182B, 115-193B, and 115-193F of the Sussex County Zoning Code). The property is located on the south side of Truman Avenue and west of South Bay Shore Drive approximately 50 feet south of the corner of South Bay Shore Drive and Truman Avenue. 911 Address: None Available. Zoning District: GR. Tax Map No.: 2-35-4.17-80.01.

Mr. Lank presented the case, which has been tabled since September 19, 2016. Mr. Lank advised the Board that the variances from the wetland buffer requirement were not needed per Section 115-193E of the Sussex County Zoning Code, which is a grandfathering clause.

The Board discussed the case.

Mr. Mills stated that he did not think the Applicant could otherwise build a house on the Property.

Mr. Mills moved to approve Variance Application No. 11831 for the requested variance from the front yard setback requirement based on the record made at the public hearing and for the following reasons:

1. The shape and topographical nature of the land make this Property unique;
2. The Property cannot be otherwise 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;
5. The use will not be detrimental to the public welfare; 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 front yard variance be **granted for the reasons stated and that the variance from the buffer requirement are not necessary per the Sussex County Zoning Code.** Motion carried 4 – 0.

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

**Case No. 11811 – The Resort at Massey’s Landing, LLC** – seeks an appeal of a determination by the Planning Director (Sections 115-280B and 115-209A of the Sussex County Zoning Code). The property is located on the north and south sides of Long Neck Road approximately 833 feet southeast of Walker Road. 911 Address: 36625 Long Neck Road, Millsboro. Zoning District: AR-1. Tax Map No.: 2-34-25.00-31.00, 31.04, & 31.02.

The Board discussed the case, which has been tabled since September 19, 2016.

Motion by Mr. Mills, seconded by Mr. Rickard, and carried to **overturn the Director’s decision in part and allow the liquor store with the stipulation that it is only open during the same time period the campground is open from April 1<sup>st</sup> until the 1<sup>st</sup> Sunday in November each year.** Motion carried 3 – 2.

The vote by roll call: Mr. Rickard – yea, Mr. Workman – nay, Mr. Mills -yea, Mr. Hudson – nay, and Mr. Callaway – yea. Mr. Hudson and Mr. Workman believed that the Applicant should have included the use as part of its conditional use application.

**Case No. 11844 – Michael Evans** – seeks variances from the side yard setback requirements (Sections 115-42B, 115-183C and 115-181B of the Sussex County Zoning Code). The property is located on the northwest side of Blue Teal Road approximately 0.27 miles northeast of Swann Drive. 911 Address: 37059 Blue Teal Road, Selbyville. Zoning District: GR. Tax Map No.: 5-33-12.16-438.00.

The Board discussed the case, which has been tabled since September 19, 2016.

Mr. Rickard made a motion to deny the Application but the motion failed for a lack of a second. Mr. Rickard withdrew his motion after discussion with the Board.

Mr. Mills moved to approve in part and to deny in part Variance Application No. 11844. Mr. Mills moved that the requested north side yard variance for the dwelling and the south side yard variance for the stoop be approved based on the record made at the public hearing and for the following reasons:

1. The forty (40) feet wide lot makes this Property unique;
2. The variances are necessary to enable reasonable use of the Property;
3. The exceptional practical difficulty was not created by the Applicant;
4. The variances will not alter the essential character of the neighborhood; and
5. The variances sought are the minimum necessary to afford relief.

As part of his motion, Mr. Mills moved that the variances for the shed and HVAC system be denied based on the record made at the public hearing because the shed and HVAC system can be built in strict conformity with the Sussex County Zoning Code.

Motion by Mr. Mills, seconded by Mr. Workman, and carried that the variances for the north side and south side be granted and the variances for the shed and HVAC be denied for the reasons stated. Motion carried 4 – 1.

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

**Meeting Adjourned 10:03 p.m.**