

## **MINUTES OF SEPTEMBER 11, 2017**

The regular meeting of the Sussex County Board of Adjustment was held on Monday, September 11, 2017, 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, Ms. Ellen Magee, Mr. John Mills, Mr. Norman Rickard, and Mr. Brent Workman. Also in attendance were Mr. James Sharp – Assistant County Attorney, and staff members Mrs. Jennifer Walls – Planning Manager and Mrs. Jennifer Norwood – Recording Secretary.

The Pledge of Allegiance was led by Mr. Callaway followed by a moment of silence for the victims of September 11.

Motion by Mr. Mills, seconded by Mr. Mears, to approve the Revised Agenda as circulated and amended. 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. 12015 – Jason M. Harshbarger** - seeks an appeal of a determination by the Planning Director (Sections 115-208 and 115-209 of the Sussex County Zoning Code). The Property is located on the south side of South Shore Drive Ext., approximately 432 feet south of Marina View Court. 911 Address: 32 South Shore Drive, Bethany Beach. Zoning District: MR. Tax Map No.: 1-34-2.00-3.01 & 4.00.

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

Jason Harshbarger, Stacey Harshbarger, Adam Rones, and Tom Ferdig were sworn in to testify regarding the appeal of a determination by the Planning Director. Mr. Rones submitted pictures and exhibits to the Board to review.

Mr. Rones testified that the Appellants are appealing the decision of the Planning & Zoning Director to not allow them to file an application for a special use exception; that the Property is located in South Shores Marina which was previously known as Rock Turn Manufactured Home Park and Simpsons Manufactured Home Park; and that the Property is located near the marina near Indian River Inlet.

Mr. Harshbarger testified that he recently purchased the Property; that the Property previously had a double-wide mobile home on pilings and the Appellants believed that they could construct a new home on the Property; that the Property was purchased as part of a bank foreclosure and the previous home was damaged and neglected; that the home had a hole in the

roof covered by a tarp, which led to mold and water damage to the inside of the home; that the home is uninhabitable; that the home was removed; that the Appellants consulted with their realtor and contractor and were under the impression that they could construct a modular home on the lot; that stick-built and modular homes are located in the neighborhood; that the home would be constructed to code and would not substantially affect adversely the uses of neighboring and adjacent properties; that the proposed home will improve property values in the neighborhood; that the modular home has been constructed and is at the manufacturer's warehouse; that the Appellants have invested over \$459,000.00 into the Property; that the builder applied for a building permit but was denied due to the zoning classification; that the Planning & Zoning Director would not allow them to apply for a special use exception; that there are 4 other stick-built or modular homes in the neighborhood; that those homes were unanimously approved by the Board; that the first home was built by Jack Parker in November 2005; that the second case was heard on February 6, 2012 (Case No. 10935) for the Golding family; that the third case was Case No. 11098 for Bayside Homes; that the fourth case was Case No. 11377 for the DeCristo family; that, during the discussion in Case No. 11098, Mr. Rickard asked counsel if the Board could determine that a stick-built or modular home can be placed in a manufactured home park and counsel replied that he presumed that the Planning & Zoning Department determined that the Applicant could apply and the Planning & Zoning Director responded by acknowledging that there have been 2-3 other stick-built or modular homes approved in the community; that the Appellants believe this discussion justifies their request; that none of the property owners in the community have received notice from Sussex County that there has been a change in the interpretation of the Code; that the community supports the appeal; that the values of land have grown; and that the Appellants have not placed the home on the Property.

Mr. Ronces testified that many of the homes in the community are mobile homes which have been improved by additions over time; that the new construction in the area have been similar to the home proposed by the Appellants; and that there have not been new mobile homes placed in the community.

Mr. Harshbarger testified that new pilings on the same footprint will be installed.

Mr. Ronces testified that new pilings were needed; that the footprint of the home will not change but the elevation of the home will change; that the previous mobile home was attached to a steel chassis which was welded to steel beams and attached to the pilings; that there had been no inquiry with the Planning & Zoning Department prior to ordering the home; that no permits were issued prior to ordering the home; that he assumed that the process would be similar to the other homes in the community and the Appellants would be able to apply for a special use exception; that the Appellants were aware that there was a risk that the special use exception could be denied; that, in hindsight, there was great risk in ordering the home prior to receiving the special use exception; and that he did not recall one of the prior cases for a neighboring property when initially discussing the project with the Appellants and, had he recalled that case, things may have played out differently.

Mr. Harshbarger testified that the home was ordered in May 2017; that 23.5% of the homes in the community are similar to the home proposed by the Appellants; and that there are 18 homes in the community and 2 vacant lots.

Mr. Roness testified that some of the neighbors are in a similar situation as the Appellants; that the Appellants are somewhat trailblazing for other neighbors who may seek similar relief; that he is aware that approvals for neighboring properties does not necessarily mean that approval would be granted for this project; and that there was implied risk with this project.

Mr. Harshbarger testified that he leases the Property subject to a 99 year lease.

Janelle Cornwell was sworn in and testified that the Property in question is considered a manufactured home park; that a manufactured home park is allowed 1 stick-built dwelling which is typically used for the park manager; that a manufactured home is defined as “a movable or portable dwelling not less than 450 square feet in size, constructed to be towed on its own chassis, connected to utilities and designed with or without a permanent foundation for year-round occupancy, which can consist of one or more components that can be retracted for towing purposes and subsequently expanded for additional capacity or of two or more units separately towable but designed to be joined into one integral unit”; that the Appellants proposed to place a modular home on the site; that the Sussex County Code treats modular homes like stick-built homes and must comply with the building code; that the County has different application processes for modular homes and manufactured homes; that the relief sought by the Appellants is not available; that the Appellants are seeking what, in essence, is a use variance and the Board is not authorized to grant use variances; that she was not employed in the Planning & Zoning Department when the previous cases came through so she cannot testify as to the situations of those cases; that there is no section in the Sussex County Zoning Code that allows for a special use exception for a modular home in a manufactured home park; that the decision related to this appeal would impact other manufactured home parks; that the Planning & Zoning Department recently had a case where someone requested permission to build a second stick-built home in a manufactured home park and the Department told the party that this use was not permitted; that the party converted the existing stick-built structure into a community facility for the residents and constructed a new stick-built home, which was permissible since the park contained only 1 stick-built home; that, at what point does the manufactured home park become a subdivision; that there are different regulations for manufactured home parks and subdivisions; that Swann Keys and Cape Windsor are examples of communities which have converted from manufactured home parks to fee-simple lots and homeowners within those communities have repeatedly applied to the Board for variances; that the modular homes will not meet the subdivision requirements for lot size and setbacks; that manufactured homes cannot meet the subdivision requirements; that the Property is zoned MR and the park is considered a non-conforming manufactured home park; that manufactured home parks are not permitted in the MR zoning district; that the park cannot be converted into a subdivision because manufactured homes are not permitted uses in the MR district; that the Property has always been treated as a manufactured home park; that the Appellants came to the County for a permit and were denied; that the Appellants came to the Planning & Zoning Department for a special use exception and the application was returned to them because the Department could not process the application; that she then submitted a letter to the Appellants explaining the Department’s decision; that, at that time, the modular home was scheduled to be delivered within 2-3 weeks and it was clear that the home had been ordered prior to discussions with the County about whether the home would be permitted; that the Department has concerns about the impact of this decision regarding other manufactured home parks in the County; that the Code only allows

for 1 stick-built home in a manufactured home park; that the park would have to go through a major subdivision process to convert the park to a fee simple subdivision but manufactured homes are not permitted in the MR zoning district; that there may not be enough land to create a fee simple subdivision with the same number of lots as the manufactured home park; that the park preexisted the enactment of the Sussex County Zoning Code; that, in order to meet the lot size requirements for a subdivision, each lot would need to have 10,000 square feet with 100 feet of road frontage; that lots in a mobile home park only need to have 5,000 square feet with 50 feet of road frontage; that the Appellants could still put a mobile home on the lot but would have to meet any flood plain requirements; that there are at least 2 different tax map parcel numbers for the park; and that the Code has always limited a mobile home park to having only 1 stick-built home.

Mr. Sharp advised the Board that, when reviewing the cases cited by the Appellants, the minutes did not cite the section of Code which permits the relief sought and the Board's minutes and agendas now cite the relevant sections of Code; that the previous cases were heard by the Board after the Department made a determination that the cases could be heard; that the Board serves as an appellate board and makes a determination whether the Appellants can proceed with a special use exception application; that §115-15 of the Code provides that "unless the contrary is clear from the context of the lists or other regulations of this chapter, uses not specifically listed are prohibited"; that case law provides that a property owner is held to be responsible for knowing the zoning regulations pertaining to his property; and that there are cases where property owners have raised equitable estoppel defenses but those defenses are only applicable in limited and exceptional cases.

Mr. Harshbarger testified that they spoke with their realtor about the proposed use; that the land lease specifically states that, when the lease is transferred, a stick-built or modular home must be placed on the lot; that the Property is owned by Simpsons Mobile Home Park and John Kerr is the trustee for the landlord; and that the Appellants relied on their contractor as well as part of the process.

Mr. Roness testified that MR zoning does not allow for mobile homes so there is no path to avoid this dilemma if residents want to convert the park into a subdivision.

Mr. Mills stated that this appeared to be a Catch-22 situation.

Mr. Sharp stated that the Appellants could place a mobile home on the Property.

Mr. Roness testified that lots in the park are under 10,000 square feet.

Ms. Cornwell testified that the park is considered a mobile home park so the Appellants could place a mobile home on the lot; that the park owner could seek a change of zone; and that it may be difficult to convert the park to a fee simple subdivision for the same number of lots due to the lot size and road frontage requirements of a subdivision.

Mr. Roness testified that the larger homes in the park changed the value and character of the neighborhood.

Mr. Harshbarger testified that he paid \$350,000.00 for the lot lease and the damaged mobile home.

Mr. Roncs testified that Representative Ron Gray assisted the Appellants with engaging in dialogue with County officials.

Mr. Harshbarger testified that there are 2 vacant lots in the community for sale for \$350,000.00 each.

Steven Golding, Rob Startzel, Andrea Doyle were sworn in and testified in support of the Appellants.

Mr. Golding submitted photographs to the Board and testified that he lives next door to the Property; that they previously received approval to construct a stick-built home on their lot; that he is President of the homeowners association and he speaks on behalf of the association's board of directors; that he supports the Appellants; that the Property will be left vacant if the special use exception is denied; that the County should want the tax revenue from a stick-built dwelling rather than a mobile home; that the residents improve the local economy; that the park is in a flood zone and homes are constructed to meet flood zone requirements; that homes must be FEMA compliant in order to receive financing; that the park is nothing like it was originally intended; that the leases include a list of obligations; that it was always understood that the community would evolve from a manufactured home park to a stick-built home community; that there are 15 manufactured homes in the community;

Mr. Starzell testified that he lives in the park; that he has a doublewide that was built in 1985 and is in disrepair; that it does not make sense to further renovate the house; that he wants to build the safest, most storm resistant house possible; that a modular home meets those requirements more than a manufactured home; and that the lease requires that his manufactured home must be replaced with a modular or stick-built home.

Ms. Doyle testified that she purchased her doublewide home in 2013; that she was always under the assumption that they could replace their home with a modular or stick-built home; that they use their home and have many guests to their home; that, if they cannot build a larger home, they may not be able to use their property; and that larger homes will bring in larger tax revenues.

Mr. Harshbarger testified that he spoke with the landlord about this appeal; that the landlord resides in Florida; that the landlord supports the appeal; and that the lease requires that, if a mobile home is removed or replaced, it must be replaced with a stick-built or modular home.

Mr. Roncs testified that the lease provisions may be a response to the MR zoning district requirements.

Mr. Harshbarger testified that the Appellants found out about the zoning issue in May 2017; and that the Property will be used as a second home.

Ms. Cornwell testified that the County has not made attempts to contact the landlord; that

the County was just made aware of the lease provision at this hearing; and that she issued her decision in June 2017 and the issue arose a few weeks prior to that decision as the County was reviewing options available to the Appellants.

The Board found three (3) parties appeared in support of the appeal.

The Board found no parties appeared in opposition of the appeal.

Motion by Mr. Mills, seconded by Ms. Magee that the appeal of a determination by the Planning Director be **tabled until the next meeting, Monday, September 18th**. Motion carried 5-0.

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

**Case No. 12016 – Raymond Baggerly & Lisa Baggerly** - seek variances from the separation requirement (Section 115-172 of the Sussex County Zoning Code). The Property is located on the north side of Colonial Lane, approximately 862 feet east of Colonial Lane. 911 Address: 40 Colonial Lane, Rehoboth Beach. Zoning District: AR-1/C-1. Tax Map No.: 3-34-6.00-335.00-52267.

Mrs. Walls presented the case and stated that the Office of Planning and Zoning received one (1) letter in support of and no letters in opposition of the Application.

Mrs. Walls advised the Board that there is a blanket variance for the Colonial East community which reduces the separation distance requirement in community to 15 feet; that there is no variance needed from the existing manufactured home on Lot 40 to the shed and porch on the adjacent Lot 42; and that there was a previous variance granted from the separation distance requirement from a home on Lot 38 to a shed on Lot 40. The variance requested per this Application is for 3.9 feet.

Lisa Baggerly and Raymond Baggerly were sworn in to testify about the Application.

Mrs. Baggerly testified that the Applicants purchased the manufactured home in August 2015 and have made improvements to the home; that the Applicants have added an awning and improved the landscaping surrounding the home; that the Applicants received all necessary approvals from the community; that the Applicants contacted the property manager regarding the placement of a shed on the Property and the property manager marked the location of where the shed could be placed; that the shed measures 12 feet by 12 feet; that the Applicants received a building permit and installed the shed; and that the inspection conducted after the shed was constructed uncovered the encroachment. Mrs. Baggerly submitted letters in support of the Application.

Mr. Baggerly testified that the park management instructed the Applicants as to where to place the shed; that he did not realize that the separation distance requirement applied to sheds; and that the park management marked where the shed could be located.

Mrs. Baggerly testified that the Applicants would not have placed the shed if they had known that the shed would violate the Sussex County Zoning Code; that their neighbors do not object to the shed; that the home does not have much storage space and the shed is needed for storage; that the Property is unique due to its size and the proximity of other structures on nearby properties; that the Property cannot other be developed in strict conformity with the Sussex County Zoning Code; that the exceptional practical difficulty was not created by the Applicants; that there is no other location to place the shed; that the variance will not alter the essential character of the neighborhood; that there are other sheds in the neighborhood; and that the variance requested is the minimum variance necessary to afford relief.

Mr. Baggerly testified that the previous shed on the Property measured 8 feet by 10 feet; and that the new shed cannot be moved.

John Finch and Patrick Shire were sworn in to testify in support of the Application.

Mr. Finch testified that he witnessed the park manager mark where the shed should be located prior to the placement of the shed; that the Applicants have improved the Property; and that he supports the Application.

Mr. Shire testified that there are lots of varying sizes in the community; that the shed is an improvement to the park; that he is on the homeowners association and supports the Application.

The Board found there were seven (7) parties 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. 12016 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 size and proximity to other homes in the neighborhood;
2. The variance is necessary to enable reasonable use of the Property;
3. The exceptional practical difficulty was not created by the Applicants because of misinformation by park management;
4. The variance will not alter the essential character of the neighborhood;
5. The Applicants are asking for the minimum variance necessary to afford relief.

Motion by Mr. Mills, seconded by Ms. Magee that the **variance be granted for the reasons stated**. Motion carried 5-0.

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

**Case No. 12017 – Jennifer Hibbs** - seeks a special use exception to operate a daycare facility (Sections 115-23 and 115-210 of the Sussex County Zoning Code). The Property is located at the north side of Hickman Road (Route 16), 1,861 feet northeast of Woodbridge Road (Route 585). 911

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Address: 6449 Hickman Road, Greenwood. Zoning District: AR-1. Tax Map No.: 5-30-4.00-1.02.

Mrs. Walls presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application. Mrs. Walls stated the Property was previously approved for the special use exception but the approval expired in 2012.

Jennifer Hibbs was sworn in to testify about the Application. Mrs. Hibbs testified that she is the owner of a Level 1 home daycare which allows her to care for up to 6 children at one time; that she proposes to move her facility to a Level 2 facility which would allow her to care for up to 9 children at one time; that the hours of operation would remain from 7:00 am to 5:00 pm Monday through Friday; that she has adequate parking; that she closed the facility in 2012 because she was pregnant with her third child; that she re-opened the facility in April 2017; that her oldest child started in public school; that the Property consists of 1.25 acres; that the children will range from six weeks to twelve years old; that the area near the Property is rural; that she has received no complaints from any neighbors; that the Property is surrounded by farmland; and that the proposal will not substantially affect adversely the uses of neighboring properties.

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

Motion by Mr. Mills, seconded by Mr. Workman that the **special use exception be granted** because the use will not substantially affect adversely the uses of neighboring and adjacent properties. Motion carried 5-0.

The vote by roll call; Mr. Workman – yea, Ms. Magee – yea, Mr. Mills – yea, Mr. Rickard – yea, Mr. Callaway – yea.

**Case No. 12018 – Joseph Scarpitti** - seeks variances from the side yard setback requirement (Sections 115-42, 115 – 181, and 115 - 210 of the Sussex County Zoning Code). The Property is located at the east side of Blue Teal Drive, approximately 1,557 feet northeast of Swann Drive. 911 Address: 37062 Blue Teal Drive, Selbyville. Zoning District: GR. Tax Map No.: 5-33-12.16-477.01.

Mrs. Walls presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application. The Applicant is requesting a variance of six (6) feet from the ten (10) feet side yard setback requirement on the south side for a second-floor deck and steps, a variance of nine (9) feet from the ten (10) feet side yard setback requirement on the south side for an HVAC system, and a variance of six (6) feet from the ten (10) feet side yard setback requirement on the south side for a proposed dwelling.

Douglas Griffin was sworn in to testify for the Application.

Mr. Griffin testified that he is the Applicant's builder; that the Property is a narrow lot which is only 40 feet wide; that the Property is located in Swann Keys; that the manufactured home on the Property is 35-40 years old and has a stick-built addition; that the Applicant proposes to remove the home and replace with a 26 feet wide home; that the home will be placed on masonry block to elevate the home above flood levels; that the home will consist of two (2) stories; that most of the replacement homes built in Swann Keys over the past several years are stick-built or modular homes; that the



Property is unique because it is narrow; that there are unoccupied mobile homes in the neighborhood; that the proposed dwelling will enhance the neighborhood; that the previous home measured 12 feet by 60 feet; that the Applicant discussed moving the HVAC unit to the rear of the home; that the HVAC unit has to be elevated about the flood level; that there is no on-street parking; that the front portion of the building envelope will be used for parking; and that the streets in Swann Keys are very narrow.

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

Mr. Workman moved to approve Variance Application No. 12018 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 shape and size;
2. The variances are necessary to enable the 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 requested are the minimum variances to afford relief.

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

The vote by roll call; Mr. Workman – yea, Ms. Magee – yea, Mr. Mills – yea, Mr. Rickard – yea, Mr. Callaway – yea.

**Case No. 12019 – Mark Fox & Thuong Fox** - seek a variance from the front yard setback requirement (Section 115-42 of the Sussex County Zoning Code). The Property is located on the west side of South Bayshore Drive (SCR 16A), approximately 3,320 feet south of Broadkill Road (Route 16). 911 address: 1407 South Bayshore Drive, Milton. Zoning District: GR. Tax Map No.: 2-35-10.06-5.00.

Mrs. Walls stated that the Office of Planning & Zoning received no correspondence in support of or in opposition to the Application and that the Applicants are seeking a variance of 24.8 feet from the 40 feet front yard setback requirement for a proposed dwelling.

Mark Fox was sworn in to testify about the Application for variance for the front yard setback. Mr. Fox testified that the Property is unique because the buildable area for the Property measures only 50 feet by 100 feet; that federal wetlands cover the rear of the Property; that the Applicants purchased a lot where the existing mobile home is located and they later purchased the rear of the Property where the wetlands are located; that the need for the variance was not created by the Applicants; that approximately 66% of the Property is covered by the federal wetlands; that the home could not be constructed on the lot to meet the setback requirements without encroaching onto the wetlands areas; that the variance will not alter the essential character of the neighborhood; that the existing structure is a singlewide manufactured home with an addition to the rear; that the existing structure was constructed in the 1970s; that the proposed home will be more in character with the other homes in the neighborhood and will improve property values; that the proposed home will be 15 feet from the front property line; that the Property consists of Lot 4 and Lot 5; that Lot 5 is unbuildable wetlands;

that the Property is subject to flooding; and that the proposed dwelling will be elevated on pilings.

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

Mr. Mills moved to approve Variance Application No. 12019 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The Property is unique because due to the marsh lands;
2. Without the variance, the Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code;
3. The difficulty requiring a variance was not created by the Applicants;
4. The variance will not alter the essential character of the neighborhood;
5. The variance requested is minimum variance necessary to afford relief.

Motion by Mr. Mills, 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. Workman – yea, Ms. Magee – yea, Mr. Mills – yea, Mr. Rickard – yea, Mr. Callaway – yea.

### **OLD BUSINESS**

**Case No. 12001 – John Floyd Lingo, III** seeks a variance from the front yard setback requirement (Sections 115-82, 115-83.8, and 115-185 of the Sussex County Zoning Code). The Property is located on the southeast corner at the intersection of Harbeson Road (Route 5) and Lewes-Georgetown Highway, (Route 9 / 404). 911 Address: 26452, 26454, 26462, 26466, and 26474 Lewes-Georgetown Highway, Harbeson. Zoning District: CR – 1. Tax Map: 2-35-30.00-68.0 & 69.00.

Mrs. Walls presented the case, which has been tabled since August 21, 2017.

Mr. Sharp reminded the Board that he had a potential conflict of interest and informed the Board that Vince Robertson, Esquire, would be available next week if there were questions.

Mr. Mills stated that he believes the Applicant met the standards for granting a variance.

Ms. Magee stated that she believes the Property is unusual and DelDOT has taken a portion of the lot.

Mr. Rickard, Mr. Workman, and Mr. Callaway stated that they believe the Applicant met the standards for granting a variance.

Motion made by Ms. Magee and seconded by Mr. Mills to approve the variance because the Applicant has met the standards for granting a variance. Mr. Mills stated that he believes the Property is unique in size and due to the DelDOT taking; that the uniqueness of the Property has

created the exceptional practical difficulty; that the variance will not alter the essential character of the neighborhood; and that the variance requested is the minimum variance necessary to afford relief.

Motion by Ms. Magee, 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, Ms. Magee – yea, Mr. Mills – yea, Mr. Rickard – yea, Mr. Callaway – yea.

**Case No. 12003 – Coastal Station Development Co., LLC** seeks a special use exception to allow multi-family dwellings and structures of mixed commercial and residential use and variances from the building length for a multi-family dwelling (Sections 115-80, 115-83.6, and 115-188(E) of the Sussex County Zoning Code). The Property is located at the northeast corner of Coastal Highway (Route 1) and Holland Glade Road (Route 271). 911 Address; 19791 Coastal Highway, Rehoboth Beach. Zoning District: C-1 & CR-1. Tax Map: 3-34-13.00-325.08.

Mrs. Walls presented the case, which has been tabled since August 7, 2017.

Motion made by Ms. Magee and seconded by Mr. Rickard to **table case No. 12003 until September 18, 2017**, because there was a lot to review and consider. Motion carried 5-0.

The vote by roll call; Mr. Workman – yea, Ms. Magee – yea, Mr. Mills – yea, Mr. Rickard – yea, Mr. Callaway – yea.

**Case No. 12010 – MacIntyre Clan Trust** seeks a special use exception use to use a manufactured home type structure as storage (Section 115-40 and 115-210 of the Sussex County Zoning Code). The Property is located at the east side of Rider Road (SCR 505) approximately 1,275 feet northwest of Columbia Road (SCR 76). 911 Address: 34575 Rider Road, Delmar. Zoning District: GR. Tax Map; 5-32-3.00-23.01.

Mrs. Walls presented the case, which has been tabled since August 21, 2017.

Mr. Workman, Mr. Rickard, and Ms. Magee stated that they were not in favor of approving the Application.

Mr. Mills stated that he was not convinced that the structure would not substantially affect adversely the uses of neighboring and adjacent properties.

Motion by Mr. Workman and seconded by Mr. Rickard, and carried unanimously to **deny case No. 12010 because the structure will substantially affect adversely the uses of neighboring and adjacent properties**. Motion carried 5-0.

The vote by roll call; Mr. Workman – yea, Ms. Magee – yea, Mr. Mills – yea, Mr. Rickard – yea, Mr. Callaway – yea.

**Meeting was adjourned at 9:06 p.m.**