

MINUTES OF SEPTEMBER 22, 2014

The regular meeting of the Sussex County Board of Adjustment was held on Monday, September 22, 2014, at 7:00 p.m. in the County Council Chambers, County Administrative Office Building, 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. Brent Workman, Mr. Jeff Hudson, and Mr. Norman Rickard, with James Sharp – Assistant Sussex County Attorney, and staff members, Mr. Lawrence Lank – Director of Planning and Zoning, and Mrs. Jennifer Norwood – Recording Secretary.

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

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously to approve the Minutes and Finding of Facts for August 4, 2014 as circulated. Motion carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes and Finding of Facts for August 18, 2014 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. 11448 – David L. Banks & Rt. 26 Car Wash, Inc. – southwest of Route 26 (Atlantic Avenue) 70 feet northwest of Route 17 (Roxana Road). (911 Address: None Available) (Tax Map I.D. 1-34-11.00-179.04)

An application for a variance from the separation requirement from another off-premise sign and a special use exception to place an off-premise sign.

Mr. Lank presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

David Banks was sworn in to testify about the Application. David Hutt, Esquire, presented the case to the Board on behalf of the Applicant and submitted exhibits and two (2) letters of support for the Board to review.

Mr. Hutt stated that the Applicants are requesting a variance of 165 feet from the three hundred (300) separation requirement from another off-premise sign and a special use exception to place an off-premise sign; that Mr. Banks is the principal of Rt. 26 Car Wash, Inc.; that the Property is zoned C-1 (commercial), and is less than one acre in size; that the Property is surrounded by other commercial property and near the intersection of Route 26 and Route 17; that a car wash and a telecommunications tower are located on the Property; that the Property is unique

as the existing building is closer to Route 26 than is now allowed by the Sussex County Code; that the Delaware Department of Transportation (“DelDOT”) has expanded Route 26 and has taken a portion of the Applicant’s property; that the existing car wash building now encroaches due to the expansion; that the proposed billboard will be 138 feet away from an existing billboard across the street; that the proposed billboard will cantilever over the existing building; that the proposed billboard will meet all square-footage, height and setback requirements; that there are ten (10) other billboards in the area; that the neighbors support the Application; that the billboard will not substantially adversely affect the neighbors or adjacent properties; that the Property is unique in size due to the DelDOT road expansion and existing building and tower; that the variance will enable reasonable use of the Property; that the difficulty has not been created by the Applicants; that the variance will not alter the character of the neighborhood; that the proposed billboard is consistent with the pattern of billboards in the area; and that the variance requested is the minimum variance to afford relief.

Mr. Banks, under oath, confirmed the statements made by Mr. Hutt.

Mr. Hutt stated that the telecommunications tower is at the rear of the Property and the proposed billboard will not interfere with reception; that the monopole will be placed in front of the existing car wash; and that there are pending leases for the proposed billboard if the Application is approved.

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 Special Use Exception/Variance Application No. 11448 for the requested special use exception because the use does not substantially adversely affect the uses of the neighboring and adjacent properties and for the requested variance for the following reasons:

1. The existence of the other billboard creates a unique circumstance;
2. The Property cannot be built in strict conformity with the Sussex County Zoning Code;
3. The variance is necessary to enable reasonable use of the Property;
4. The Applicants have made accommodations in the design of the billboard;
5. The exceptional practical difficulty was not created by the Applicants;
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 special use exception and the variance 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. 11449 – Birdie Tucker – west of Road 258 (Hudson Road) and being east of E Lake Drive 150 feet south of Dan’s Lane and being Lot 3 within Lazy Lake Subdivision. (911 Address: 119 E Lake Drive, Milton, DE) (Tax Map I.D. 2-35-26.00-81.00)

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

Mr. Lank presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

Birdie Tucker and Steve Tucker were sworn in and testified requesting a variance of 5.5 feet from the ten (10) feet side yard setback requirement for a proposed manufactured home.

Mr. Tucker testified that a Delaware Department of Natural Resource and Environmental Control (“DNREC”) site plan shows the Property as being larger than it actually is; that Birdie Tucker purchased the manufactured home to place on the Property based on that information; that the placement of the manufactured home is consistent with the neighborhood; that other mobile homes in the neighborhood face the road and that turning the unit would be out of character with the neighborhood; and that Ms. Tucker originally believed that the lot was 100 feet wide.

Ms. Tucker testified that the Property is only 75 feet wide; that she would not have purchased that unit had she realized the error on the DNREC site plan; that the existing septic system is in the rear yard and if she turned the house, it would be on top of the septic system.

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. 11449 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The error on the DNREC site plan created a unique situation;
2. The variance is necessary to enable reasonable use of the Property;
3. The exceptional practical difficulty was not created by the Applicant;
4. The variance will not alter the essential character of the neighborhood;
5. The variance sought is the minimum variance necessary to afford relief; and
6. The variance represents the least modification of the regulation at 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. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, Mr. Mills – yea, and Mr. Callaway – yea.

Case No. 11450 – Faith R. Goldstein – east of Route One (Coastal Highway) and being south of Bay Road 180 feet west of Ocean Road and being Lot 2 (Unit 2) Tween The Waters II Condominium in Tower Shores Subdivision. (911 Address: None Available) (Tax Map I.D. 1-34-5.00-95.00-Unit 2)

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

Mr. Lank presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

Faith Goldstein was sworn in and testified requesting a variance of 0.2 feet from the ten (10) feet side yard setback requirement for an existing dwelling, a variance of 5.6 feet from the ten (10) feet side yard setback requirement for a proposed elevator, a variance of 0.3 feet from the ten (10) feet side yard setback requirement for an existing dwelling, and a variance of 5.7 feet from the ten (10) feet rear yard setback requirement for a proposed elevator and deck.

Ms. Goldstein testified that the existing dwelling is a duplex with three (3) flights of stairs; that her granddaughter needs the elevator to be able to access the dwelling independently; that the interior of the house will be renovated to accommodate her granddaughter; that she installed four (4) chair lifts but her granddaughter cannot use them without assistance to get in and out of her wheelchair; that the proposed addition and elevator will give her granddaughter suitable living space now that she is older; that the third floor of the dwelling is the main living area; that her neighbors support the Application; that the small footprint of the existing dwelling makes the Property unique; that the Property cannot be developed in strict conformity with the Sussex County Zoning Code; that she did not create the hardship; that the variances are necessary to enable reasonable use of the Property; that she has tried other alternatives to the elevator; that the dwelling is very narrow; and that the variances requested are the minimum variances necessary to afford relief.

Robert Kunitz was sworn in to testify about the Application. Mr. Kunitz testified about the survey attached to the Application; and that the addition to the dwelling will not be closer to the rear property line than as is shown on the survey.

Ms. Goldstein testified that she was not the first owner of the dwelling; that the dwelling has been on the Property since 1982; and that there have been no additions to the dwelling since she purchased it.

Mr. Kunitz testified that the dwelling has not moved or been expanded.

The Board found that one (1) party appeared in support of the Application.

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

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11450 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The necessity of the elevator and the layout of the existing dwelling make the Property unique;
2. The variances are necessary to enable reasonable use of the Property;
3. The hardship and the exceptional practical difficulty were not created by the Applicant;
4. The variances will not alter the essential character of the neighborhood; and
5. The variances sought are the minimum variances necessary to afford relief.

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

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

Case No. 11451 – J. David Amos – northeast of Oak Orchard Road (Road 297) and being southeast of Cannon Road 450 feet northeast of Fagan Street, aka Forest Drive, and being Lots 39 and 41 of the Addition to Charles C. Fagan and Delaware Oyster Farms Lots. (911 Address: 28251 Cannon Street, Millsboro, DE) (Tax Map I.D. 2-34-35.05-18.00)

An application for a special use exception for a garage / studio apartment.

Mr. Lank presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

J. David Amos was sworn in to testify about the Application. Richard Berl, Esquire, presented the case to the Board on behalf of the Applicant and submitted exhibits for the Board to review.

Mr. Berl stated that the Applicant is requesting a special use exception for a garage / studio apartment; that his client purchased the Property in November 2012 to use for a rental property; that the previous owners had converted the existing two-story garage into an apartment without building permits; that the Applicant currently rents the existing dwelling; that the Applicant let someone live in the apartment rent free until the tenant became a problem; that during the eviction process the Applicant was notified by the Planning and Zoning Department that the apartment was not permitted; that the neighborhood is mixed with residential stick-built and manufactured homes; that there is adequate parking to accommodate the tenants as there are three (3) parking spaces on the Property with one (1) space dedicated to the tenant in the apartment; that the Applicant plans to renovate the apartment; that the apartment consists of the second floor of the garage and part of

the first floor of the garage; that the apartment is under 800 square feet; and that the use does not substantially adversely affect the neighbors or adjacent properties.

Mr. Amos, under oath, confirmed the statements made by Mr. Berl. Mr. Amos testified that there are two (2) bathrooms in the apartment.

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 Special Use Exception Application No. 11451 for the requested special use exception based on the record made at the public hearing because the use does not substantially affect adversely the uses of adjacent and neighboring properties.

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

Case No. 11452 – Kathleen Stone / John Meyer – northeast of Route One (Coastal Highway) 65 northwest of Carolina Street and being Lot 5 and part of Lot 6 within Killen's Addition Subdivision. (911 Address: 38439 Carolina Street, Rehoboth Beach, DE) (Tax Map I.D. 3-34-20.09-167.00)

An application for a variance from the fence height requirement in the front yard.

Mr. Lank presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of the Application and received (1) letter in opposition to the Application.

Kathleen Stone was sworn in and testified requesting a variance of forty (40) feet from the forty (40) foot setback requirement for a seven (7) feet solid fence (exceeding 3.5 feet in height allowed) thereby requesting a variance of 3.5 feet from the 3.5 feet maximum height requirement for a fence. Ms. Stone submitted pictures for the Board to review. Ms. Stone testified that the Applicants are requesting a variance to allow for a seven (7) feet tall privacy fence; that the Property is unique because it is adjacent to Route 1; that she purchased the Property in June 2014; that the Applicants have been renovating the existing dwelling; that the Applicants are now beginning clean up to the Property; that the proposed fence will be the same height and style as the neighbor's existing fence; that there is no possibility the Property can be developed in strict conformity; that the need for the variance was not created by the Applicants; that there are other fences in the neighborhood; that the proposed fence will not alter the essential character of the neighborhood; that the height and style of the fence will be consistent with other fences in the

neighborhood; and that the fence will block trespassers from using their property as a pathway to Route One.

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. 11452 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The location and surrounding property make the Property unique;
2. The variances are necessary to enable reasonable use of the Property;
3. The hardship and exceptional practical difficulty were not created by the Applicants;
4. The variances will not alter the essential character of the neighborhood; and
5. The variances sought are the minimum variances 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. 11453 – Anthony Balsamo – south of Route 54 (Lighthouse Road) and being west of Cleveland Avenue 1,050 feet south of Lincoln Drive and being Lot 26 Block 4 within Cape Windsor Subdivision. (911 Address: 38852 Cleveland Avenue, Selbyville, DE) (Tax Map I.D. 5-33-20.18-115.00)

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

Mr. Lank presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

Anthony Balsamo was sworn in and testified requesting a variance of 1.5 feet from the ten (10) feet side yard setback requirement for both sides of the property for a proposed dwelling, and a variance of 4.7 feet from the twenty (20) feet rear yard setback requirement for a proposed deck. Mr. Balsamo testified that his parents purchased the Property one (1) year ago; that the existing house will be removed and replaced with a new dwelling; that the Property is a corner lot which makes it unique; that the Applicant seeks to maximize the amount of living space in the dwelling; that other homes in the neighborhood have two (2) car garages; that the proposed dwelling will have a grand entrance between the two (2) attached garages; that other lot owners in the neighborhood are replacing their homes with newer construction; that his father was unable to attend the hearing due to a family emergency; that the deck can be built in compliance with the Sussex County Zoning Code; and that he would like more time to prepare the case.

Mr. Lank advised the Board that Cleveland Avenue makes a “T” and the corner yard setback requirement applies; that a variance of 6.5 feet on the south side of the Property applies and that a variance of 1.5 feet applies on the north side of the Property.

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

Motion by Mr. Mills, seconded by Mr. Rickard, and carried unanimously that the case be **left open until October 6, 2014 to allow the Applicant more time to prepare his presentation to the Board.** 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. 11454 – Eva M. Malone & Sean Malone – north of Route 64 (Dorothy Road) 600 feet west of U.S. Route 13 (Sussex Highway) (911 Address: None Available) (Tax Map I.D. 3-32-7.00-18.00)

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

Mr. Lank presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

Leslie King was sworn in and testified requesting a special use exception to operate a daycare facility; that she recently moved to this property; that she has operated a daycare at her previous address for fourteen (14) years; that there is adequate parking available; that she will have one (1) employee in addition to her; that she will care for up to twelve (12) children; that the ages of the children are infant to twelve (12) years old; that her hours of operation are 6:00 a.m. to 6:00 p.m.; that she has the Fire Marshal’s approval; that she is waiting on licensing approval from the State; that the use will not substantially adversely affect the uses of neighboring and adjacent properties; that the neighbors support the Application; that the Property is located in a residential neighborhood; and that there are woods adjacent to the Property.

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 Special Use Exception Application No. 11454 for the requested special use exception based on the record made at the public hearing because the use does not substantially affect adversely the uses of adjacent and neighboring properties.

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

Case No. 11455 – David E. Haines – east of Road 279 (Camp Arrowhead Road) and being south of North Drive, 400 feet west of Bay View Drive and being Lot B-21 within West Bay Park a Mobile Home Park. (911 Address: None Available) (Tax Map I.D. 2-34-18.00-40.00-Unit 12506)

An application for a variance from the separation requirement between units in a mobile home park.

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

David Haines and Mark Misner were sworn in and testified requesting a variance of 7.5 feet from the twenty (20) feet separation requirement from an accessory building on an adjacent lot in a manufactured home park.

Mr. Misner testified that Mr. Haines intends to replace the existing, aging, manufactured home located on the Property; that the proposed manufactured home is reasonable in size; that he is the manager of West Bay Park; that the Park supports the Application; that the proposed manufactured home encroaches less than the existing unit; that the neighbor to the west has a shed / lean which creates the encroachment; that the neighbor is not able to move the shed due to the location of existing utilities on that lot; that the proposed unit is consistent with other homes in the neighborhood; that the proposed unit cannot be moved closer to the east without encroaching on the house located on the property adjacent to the east side of the Property; that the park was created in the 1960s for single-wide homes; that many of the homes in the park have been improved but not replaced; that the location of the shed creates a unique situation; that the Property cannot be developed in strict conformity with the Sussex County Zoning Code; that the variance is necessary to enable reasonable use of the Property; that the practical difficulty was not created by the Applicant; that moving the unit towards the front of the Property will be inconsistent with the placement of other homes in the neighborhood which are 25 feet from the road; that moving the unit towards the front of the Property would also limit parking on the Property; that the variance will not alter the essential character of the neighborhood; that the use is not detrimental to the public welfare; that the proposed unit will improve the property values of neighboring properties; and that the variance represents the least modification of the regulation at issue.

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. 11455 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The neighbor's shed creates a unique situation;
2. The variance is necessary to enable reasonable use of the Property;
3. The exceptional practical difficulty was not created by the Applicant;
4. The variance will not alter the essential character of the neighborhood;
5. The variance sought is the minimum variance necessary to afford relief; and
6. The variance requested represents the least modification of the regulation at 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. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

Case No. 11456 – John Elliott, Carol Elliott, F. Etzel, & M. Etzel – north of Route 54 (Lighthouse Road) and being west of Mallard Drive 600 feet north of Swann Drive and being Lot 68 Block H within Swann Keys Subdivision (911 Address: 36971 Mallard Drive, Selbyville, DE) (5-33-12.16-78.00)

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

Mr. Lank presented the case and stated that the Office of Planning and Zoning received three (3) letters of support to the Application and had not received any correspondence in opposition to the Application.

John Elliott was sworn in and testified requesting a variance of 4.9 feet from the ten (10) feet front yard setback requirement for an existing shed; that the shed cannot be placed in the side yards due to the location of the neighbors' existing homes; that one neighbor has placed its home very close to the property line and the other side of the Applicants' house is where the entrance to his home is located; that he would suffer a hardship if the shed had to be removed; that he did not measure from the property line when placing the shed; that there are similar sheds in front yards in the neighborhood; that he is still able to park four (4) cars on the lot; that the variance does not alter the character of the neighborhood; that the location of the neighbor's house makes the Property unique; that the rear of the Property abuts a lagoon and he could not place the shed in the rear yard due to the lagoon; that the variance is necessary enable reasonable use of the Property; that the shed will allow him to store his tools and related items; that the difficulty has not been created by the Applicants; that the shed will not impede traffic; that the use will not be detrimental to the public welfare; that the variance requested is the minimum variance to afford relief; and that the variance represents the least modification possible of the regulation at issue.

The Board found that one (1) party appeared in support of the Application.

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

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11456 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The size of the lot makes the Property unique;
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 variance sought is the minimum variance necessary to afford relief; and
6. The variance represents the least modification of the regulation at issue.

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. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

Case No. 11457 – BAK, LLC – northwest corner of Country Club Road (Road 273) and Coastal Highway (Route One) and being Lot 3 within Rehoboth Gateway Commercial Subdivision (911 Address: None Available) (Tax Map I.D. 3-34-13.00-325.48)

An application for a special use exception to place an off-premise sign and for variances from the maximum square footage requirement, the height requirement and the side yard setback requirement.

Mr. Lank presented the case and stated that the Office of Planning and Zoning received one (1) letter in support of the Application and had not received any correspondence in opposition to the Application.

Zak Crouch and Doug Motley were sworn in and testified requesting a special use exception to place an off-premise sign, a variance of 600-square-feet from the maximum allowable 600-square-feet requirement, a variance of 15 feet from the 25 feet maximum height requirement, and a variance of 26.64 feet from the fifty (50) feet side yard setback requirement for an off-premise sign.

Mr. Crouch submitted exhibits to the Board to review. Mr. Crouch testified that the Applicant is seeking approval to relocate an existing billboard located on the Property; that the billboard needs to be moved pursuant to a site plan approved by the Sussex County Planning & Zoning Commission and related agencies; that DelDOT requires the entrance to the proposed development be in a location that requires the existing billboard be moved; that the billboard will be relocated to a proposed concrete island approximately twenty (20) feet south and seventy-five (75) feet west from its existing location; that the billboard will be located 23.36 feet from the side

property line but the variance from the side yard setback will be eliminated in the near future because the property line will be removed as part of the site plan process and the lots will be combined; that the site is pending final site plan approval for a shopping center; that the hardship was not created by the Applicant; that entrance requirements set forth by DelDOT created the hardship; that the size and height of the billboard will remain the same; that the billboard will be located further off of Route 1; and that the billboard is a monopole structure; that there are other similarly sized billboards in the area.

Mr. Motley testified that the size of the billboard is necessary to improve visibility of the billboard; that it is more cost effective to relocate the existing billboard that was previously approved by this Board than to make changes to the size of the billboard; and that the Property is currently a grass field.

Mr. Crouch testified that the hardship has been created by the DelDOT requirements; that the surrounding properties are zoned commercial; and that the use will not substantially adversely affect the uses of adjacent and neighboring properties.

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 Special Use Exception/Variance Application No. 11457 for the requested special use exception and variances based on the record made at the public hearing because the use does not substantially adversely affect the uses of the neighboring and adjacent properties and for the following reasons:

1. The DelDOT requirements and proposed construction create a unique situation;
2. The variances are necessary to enable reasonable use of the Property;
3. The difficulty was not created by the Applicant;
4. The variances will not alter the essential character of the neighborhood;
5. The variances sought are the minimum variances necessary to afford relief; and
6. The variances represent the least modifications of the regulations at issue.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the special use exception and variances 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.

OLD BUSINESS

Case No. 11444 – Wolfram H. Andrews & Arlene S. Andrews – south of Route 54 (Lighthouse Road) and being east of Roosevelt Avenue 1,200 feet south of Lincoln Drive and being Lot 22

Block 7 within Cape Windsor Subdivision (911 Address: 38815 Roosevelt Avenue, Selbyville, Delaware) (Tax Map I.D. 5-33-20.18-13.00)

An application for variances from the front yard and rear yard setback requirement.

The Board discussed the case, which has been tabled since September 8, 2014.

Mr. Rickard stated that he would move that the Board recommend denial of Variance Application No. 11444 for the requested variances based on the record made at the public hearing because the exceptional practical difficulty has been created by the Applicants.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried that the variance be **denied for the reason stated**. Motion carried 4 – 1.

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

Meeting Adjourned 9:33 p.m.