

## MINUTES OF NOVEMBER 4, 2013

The regular meeting of the Sussex County Board of Adjustment was held on Monday, November 4, 2013, at 7:00 p.m. in the County Council Chambers, County Administrative Office Buildings, Georgetown, Delaware.

The meeting was called to order at 7:00 p.m. with Chairman Callaway presiding. The Board members present were: Mr. Dale Callaway, Mr. John Mills, Mr. Brent Workman, Mr. Jeff Hudson, and Mr. Norman Rickard, with Mr. James Sharp – Assistant County Attorney, and staff members, Ms. Melissa Thibodeau – Zoning Inspector II, and Mrs. Jennifer Norwood – Recording Secretary.

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

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously to approve the Minutes of September 23, 2013 as circulated. Motion carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Rickard, and carried unanimously to approve the Finding of Facts for September 23, 2013 with the exception of Case No. 11216 – Allen Harim Foods, LLC. Motion carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Rickard, and carried unanimously to approve the Finding of Facts for Case No. 11216 – Allen Harim Foods, LLC as circulated. Motion carried 4 – 0. Mr. Hudson abstained from discussion and vote on this Motion.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes of October 7, 2013 as circulated. Motion carried 5 – 0.

Motion by Mr. Rickard, seconded by Mr. Mills, and carried unanimously to approve the Finding of Facts for October 7, 2013 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. 11274 – Laf Erickson & Gundula Erickson** – northeast of Wingate Road (Road 343) 975 feet northwest of Omar Road (Road 54). (Tax Map I.D. 1-34-10.00-62.09)

An application for a variance from the minimum lot width requirement for a parcel.

Ms. Thibodeau presented the case. Laf Erickson was sworn in to testify about the Application. Tim Willard, Esquire, appeared on behalf of the Applicants. Mr. Willard stated to the Board that this case had been left open due to an incorrect parcel number listed on the Application; that the previous hearing was held on October 7, 2013; that testimony and evidence

were presented at that time; and that the Applicants have no additional testimony. Mr. Erickson, under oath, confirmed the testimony presented at the October 7, 2013 meeting.

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

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

Mr. Mills stated that he would move that the Board recommend approval of Variance Application No. 11274 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The utility right of way and layout of the Property make the Property unique;
2. The variance is necessary to enable reasonable use of the Property;
3. The difficulty was not created by the Applicants;
4. The variance will not alter the essential character of the neighborhood; and
5. The variance sought is the minimum variance necessary to afford relief.

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

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

**Case No. 11286 – Gary Liska & Veronique Liska** – southeast corner of Bay Shore Drive and Flounder Avenue (a pedestrian access) and 0.7 mile southeast of Route 16 (Broadkill Road) and being Lot 17 and ½ Lot 18 Old Inlet Beach Section of Broadkill Beach. (Tax Map I.D. 2-35-10.06-28.00)

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

Ms. Thibodeau presented the case. Gary Liska was sworn in to testify about the Application. Tim Willard, Esquire, presented the case to the Board on behalf of the Applicants and stated that the Applicants are requesting a variance of ten (10) feet from the thirty (30) feet front yard setback requirement for a proposed two (2) story dwelling. Mr. Willard submitted exhibits to the Board. Mr. Willard stated that the Property is located in Broadkill Beach; that the Applicants purchased the Property in March 2013; that the existing non-conforming, one-story dwelling located on the Property has been torn down; that the pilings from the previous dwelling remain and the proposed dwelling is to be constructed on the existing pilings; that the proposed two (2) story dwelling creates the need for the variance because it is a two (2) story dwelling rather than a one (1) story dwelling and is thus an extension of a non-conforming use; that the lot measures seventy five (75) feet by one hundred (100) feet; that there is a twenty (20) feet wide beach access on one side of the Property; that the rear of the Property borders the Delaware Bay;

that the dwelling had a deck on the bayside; that the proposed dwelling is consistent with other dwellings in the neighborhood; that the non-conforming dwelling creates a unique situation; that the dwelling was created before the Sussex County Zoning Code was created; that the second story cannot be built over the first floor without a variance; that the proposed second story enables reasonable use of the Property; that the difficulty was not created by the Applicants; that the variance will not alter the essential character of the neighborhood; that the variance sought is the minimum variance necessary to afford relief; and that the proposed dwelling will not be as tall as other dwellings in the neighborhood and it will meet the Sussex County height requirements. Mr. Liska, under oath, confirmed the statements made by Mr. Willard.

The Board found that five (5) parties appeared in support of the Application.

Ms. Thibodeau stated that the Office of Planning & Zoning received one (1) letter 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. 11286 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The Property is seventy-five (75) feet wide which makes it unique in size;
2. The variance is necessary to enable reasonable use of the Property;
3. The non-conformity of the pilings 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 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. 11287 – Norman Cohen** – south of Angola Road (Road 277) and being east of Oak Street East 650 feet south of Woodland Circle and also being Lot 34 Angola By The Bay. (Tax Map I.D. 2-34-17.08-196.00)

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

Ms. Thibodeau presented the case. Adam Gerber, Esquire, presented the case to the Board on behalf of the Applicant and stated that the Applicant is requesting a variance of 6.9 feet

from the thirty (30) feet front yard setback requirement for an existing deck and a variance of 5.6 feet from the ten (10) feet side yard setback requirement for an existing dwelling. Mr. Gerber submitted exhibits to the Board for review. Mr. Gerber stated that the dwelling and deck were built in 1973; that the Applicant purchased the Property in August 2013; that the lot is unusual in shape and is only thirty-five (35) feet wide in the front; that the variance is necessary for the Applicant to obtain clear title to the Property; that the variance is necessary to enable reasonable use of the Property; that the Property cannot otherwise be developed; that the difficulty was not created by the Applicant because the non-conformity is believed to have existed since 1973; that the variance will not alter the character of the neighborhood; that the use is not detrimental to the public welfare; that the variance sought is the minimum variance to afford relief; and that the existing structure would not be altered.

Norman Cohen was sworn in to testify about the Application. Mr. Cohen, under oath, confirmed the statements made by Mr. Gerber. Mr. Cohen also testified that he is unaware of any complaints about the location of the dwelling; that the dwelling has been left vacant for a long period of time; that the neighbors support the Application; and that he does not know how the dwelling could be brought into compliance with the Sussex County Zoning Code.

Mr. Gerber stated that he believed a Certificate of Compliance was issued in 1973.

Michael Bacher was sworn in and testified in support of the Application and testified that he has been a realtor in the Lewes – Rehoboth Beach area for fifteen (15) years; that he is familiar with the Angola by the Bay development; that the variances will not alter the character of the neighborhood; that the dwelling does not impair the uses of neighboring and adjacent properties; and that the variances do not affect the property values in the area.

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. 11287 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The Property is uniquely shaped;
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 requested variances represent the least modifications of the regulations at issue.

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. 11288 – Edward Mulhern** – south of Angola Road (Road 277) and being east of Oak Street East 430 feet south of Woodland Circle and also being Lot 30 Angola By The Bay. (Tax Map I.D. 2-34-17.08-200.00)

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

Ms. Thibodeau presented the case. Shannon Carmean Burton, Esquire, was present on behalf of the Applicant and presented the case and stated that the Applicant was requesting a variance of 0.6 feet from the twenty (20) feet rear yard setback requirement for an existing screen porch; that the Property is located in the Angola by the Bay development; that the Applicant is elderly and unable to attend the hearing; that the Applicant has given Power of Attorney to his son Joseph Mulhern but he was also unable to attend the hearing. Mrs. Burton submitted to the Board a copy of Joseph Mulhern's affidavit in support of the Application. Mrs. Burton stated that the Applicant purchased the Property in 1977; that the dwelling was constructed in 1985 and the porch was added in 1987; that Certificate of Compliances were issued on all structures; that the Applicant was unaware of the encroachment until a survey completed in preparation of the sale of the Property showed the encroachment; that the Property is unique in shape as it is long and narrow; that the variance is necessary to enable reasonable use of the Property; that the porch has been in its current location since 1987; that the variance will not alter the essential character of the neighborhood; that the use is not detrimental to the public welfare; that the Homeowners Association for Angola by the Bay supports the Application; that the Applicant has not received any complaints about the porch; that the Property cannot otherwise be built in strict conformity with the Sussex County Zoning Code; that the variance sought is the minimum variance to afford relief; and that the variance sought represents the least modification of the regulation at issue.

Patsy Carpenter was sworn in to testify about the Application. Ms. Carpenter, under oath, confirmed the statements made by Mrs. Burton.

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. 11288 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The Property is unique in size;
2. The variance is necessary to enable reasonable use of the Property;
3. The difficulty was not created by the Applicant;
4. The variance will not alter the essential character of the neighborhood;
5. The variance sought is the minimum variance necessary to afford relief; and
6. The variance sought 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. 11289 – Lucienne Wolfe** – east of Plantation Road (Road 275) and being northeast of Lakeside Drive 380 feet north of Plantations Boulevard and being Lot 81 Plantation East development. (Tax Map I.D. 3-34-6.00-1196.00)

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

Ms. Thibodeau presented the case. Shannon Carmean Burton, Esquire, was present on behalf of the Applicant and stated that the Applicant is requesting a variance of 0.7 feet from the ten (10) feet side yard setback requirement for an existing enclosed porch. Mrs. Burton stated that the Applicant is 93 years old and lives in the Cadbury and is unable to attend the hearing; that the Property is located in Plantations East; and that a sworn affidavit has been obtained from the Applicant. Mrs. Burton submitted to the Board a copy of the Applicant's affidavit and copies of a survey of the Property and a Certificate of Compliance. Mrs. Burton stated that the Applicant purchased the Property in 1997; that, during construction, a survey showed the encroachment; that the Applicant advised the builder at that time to change the size of the porch to bring it into compliance with the Sussex County Zoning Code; that the Applicant believed that the porch had been brought into compliance at that time; that the Applicant was not aware that the porch still encroached until a recent survey for settlement was completed; that a Certificate of Compliance was issued in 1997; that the Property is long and narrow which makes it unique in shape; that the variance is necessary to enable reasonable use of the Property; that the variance will not alter the character of the neighborhood; that the porch is not detrimental to the public welfare; that the porch cannot be built in strict conformity with the Sussex County Zoning Code; that the variance is the minimum variance to afford relief; and the variance represents the least modification of the regulation at issue.

Nora Martin was sworn in to testify about the Application. Ms. Martin, under oath, testified that she is a realtor in the area; that she has met with the Applicant on numerous occasions about the Application; and Ms. Martin confirmed the statements made by Mrs. Burton.

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

Mr. Mills stated that he would move that the Board recommend approval of Variance Application No. 11289 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The narrowness of the lot and the situation make the Property unique;
2. The variance is necessary to enable reasonable use of the Property;
3. The difficulty was not created by the Applicant;
4. The variance will not alter the essential character of the neighborhood; and
5. The variance sought is the minimum variance 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. Rickard – yea, Mr. Workman – yea, Mr. Hudson – yea, Mr. Mills – yea, and Mr. Callaway – yea.

**Case No. 11290 – Michael Golden** – west of Road 357 (Cedar Neck Road) 107 feet north of Wood Lane (a private street) approximately 1.0 mile north of Road 358 (Sandy Cove Road). (Tax Map I.D. 1-34-5.00-230.00)

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

Ms. Thibodeau presented the case. Michael Golden and Bryan Elliott were sworn in and testified requesting a variance of twelve (12) feet from the forty (40) feet front yard setback requirement for a proposed dwelling. Mr. Elliot testified that the Board previously approved a variance on the Property in 2010; that due to finances and family issues the Applicant was unable to construct the dwelling within the time frame of the approval; that the existing non-conforming farm house has been torn down; that the proposed dwelling will be placed within the same footprint as the previous farm house; that the proposed location is in keeping with the neighborhood since all the dwellings in the area are close to the road; that the neighborhood and previous non-conforming dwelling create a unique situation; that the previous home was built prior to the adoption of the Sussex County Zoning Code; that there is a large Magnolia tree located in the rear yard that the Applicant wishes to keep; that the location of the tree makes it difficult to place the dwelling closer to the rear yard setback; that the variance request is the same request approved in 2010 except that the porch is one (1) foot wider; that the porch will not encroach any further into the setback area; and that variance will not alter the character of the neighborhood.

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

Mr. Hudson stated that he would move that the Board recommend approval of Variance Application No. 11290 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The front yard setbacks within the neighborhood of the Property create a unique situation;
2. The Applicant intends to build the dwelling on the same footprint as the previous dwelling;
3. The Property cannot be developed in strict conformity with the Sussex County Zoning Code;
4. The difficulty was not created by the Applicant;
5. The variance will not alter the essential character of the neighborhood; and
6. The variance sought is the minimum variance necessary to afford relief.

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

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

**Case No. 11291 – Lisa Driscoll & James Truett, Jr.** – south of Road 277 (Angola Road) being southwest of Poplar Drive 380 feet northwest of Woodland Circle and also being Lot 43 Angola By The Bay. (Tax Map I.D. 2-34-11.20-122.00)

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

Ms. Thibodeau presented the case. Doug Ritter was sworn in and testified requesting a variance of 5.6 feet from the thirty (30) feet from the front yard setback requirement for an existing dwelling. Mr. Ritter testified that he built the dwelling in July 2013 for the Applicants; that due to the curve in the property line the masons made an error when running the string line for the foundation which resulted in placing the home in the setback area; that the lot is small which makes it unique; that the need for the variance was not created by the Applicants; that the variance will enable reasonable use of the Property; that the variance will not alter the character of the neighborhood; that the variance will not be detrimental to the public welfare; that the porch would have to be removed in order to comply with the setback requirements; that the variance is the minimum variance to afford relief; and that the plan submitted to the Homeowners Association showed the porch on the front of the dwelling, not the rear.

Ms. Thibodeau read a letter from the Homeowners Association requesting the Board to table the case until the Association is able to review the revised plan.

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

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

At the conclusion of the public hearings, the Chairman referred back to this case. Motion by Mr. Mills, seconded by Mr. Rickard, and carried unanimously that the case be **tabled until November 18, 2013**. 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. 11292 – Gregory Stevens & Rita Stevens** – south of Road 284 (Mulberry Road) and being south of East Lane which is 1,800 feet south of State Maintenance of Mulberry Knoll Road and Bay Shore Drive and also being Lots 6 and 7 Bay Shore Hills. (Tax Map I.D. 3-34-18.00-49.01)

An application for a variance from the front yard and rear yard setback requirements.

Ms. Thibodeau presented the case. Gregory Stevens was sworn in and testified requesting a variance of ten (10) feet from the thirty (30) feet front yard setback requirement and a variance of ten (10) feet from the twenty (20) feet rear yard setback requirement for a proposed dwelling. Mr. Stevens testified that the Property he purchased in 2003 was originally four (4) separate lots; that he combined the properties to create two (2) buildable lots; that the Board granted variances for the two (2) lots in 2007; that he consolidated the lots due to the small lot sizes and the septic impact on the lots; that he was only able to construct one (1) dwelling at that time; that he is now ready to construct the second dwelling on Lots 6 & 7; that the Property is wide but is very shallow and fronts on Love Creek; that, since 1989 when the original dwelling was placed, the shoreline has eroded eighteen (18) feet; that the Property has eroded nine (9) feet since 2003; that he has constructed rip rap to stabilize the erosion and to maintain seventy five (75) feet from the wetlands; that he has permits in place with the Army Corps of Engineers; that the area is a very environmental sensitive area and creates a unique situation; and that he submitted a letter with his application addressing all the standards.

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. 11292 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The erosion to the shoreline makes the Property unique;
2. The variances are necessary to enable reasonable use of the Property;
3. The difficulty was not created by the Applicants;
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 requested represent the least modifications of the regulations at issue.

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. 11293 – Concrete Building Systems of Delaware, Inc.** – north of Road 502 (Racetrack Road) ¼ mile west of Route 13A (Bi-State Boulevard). (Tax Map I.D. 3-34-20.13-45.01)

An application for a special use exception to retain a manufactured home type structure as an office.

Ms. Thibodeau presented the case. Todd Stevens was sworn in and testified requesting a special use exception to retain a manufactured home type structure as an office. Mr. Stevens testified that he is the President of Concrete Building Systems of Delaware; that the Applicant is a pre-cast concrete business that has operated at this site since 1981; that he purchased the business in 2007 and has made significant investment into the Property since that time; that the previous owner was approved for a special use exception that expired in 2000; that he was not aware of the need for a special use exception; that he replaced the previous unit one (1) year ago; that the current unit measures forty two (42) feet by sixty four (64) feet; that he has made major improvements to the site since 2007; that he added a second business to the site in February 2013; that he plans to use the unit for at least the next five (5) years; that the neighbors support the Application; that Melody Booker of the Delaware Department of Economic Development Office visited the site and has submitted a letter of support; that the Property is zone Heavy-Industrial; and that the prior facility on the Property failed.

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

Mr. Hudson stated that he would move that the Board recommend approval of Special Use Exception Application No. 11293 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 the adjacent and neighboring properties and the Property is zoned Heavy Industrial.

Motion by Mr. Hudson, seconded by Mr. Mills, and carried unanimously that the special use exception 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. 11294 – James Paoli & Nello Paoli** – northeast of Route 1 (Coastal Highway) 100 feet northwest of Cullen Street. (Tax Map I.D. 3-34-20.13-45.01)

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

Ms. Thibodeau presented the case. Michael Paoli, Sr., was sworn in and testified requesting a variance of 13.1 feet from the forty (40) feet front yard setback requirement for a sun porch; that he is here on behalf of his son; that the Applicants want to construct a sun porch for the family because there is no place for his grandchildren to play when the weather is bad; and that he needed more time to prepare for the hearing.

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 to leave the case open until after the public hearings to allow the Applicants time to prepare its case. Motion carried 5 – 0.

At the conclusion of the public hearings, the Chairman referred back to this case. Mr. Paoli testified that he retained a surveyor to prepare the drawings for the sun porch; that he was advised to apply for a variance when he submitted plans and a survey; and that he did not know what standards he had to meet in order to be granted a variance.

Motion by Mr. Rickard, seconded by Mr. Mills, and carried unanimously to **leave the case open until November 18, 2013 to allow the Applicants more time to prepare his case**. 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. 11295 – Bruce Kauffman & Maryanne Kauffman** – west of Route One, northwest of Andrew Avenue 200 feet southwest of Bayard Avenue and 600 feet northeast of Dodd Avenue and also being Lot 6 Block D of Ann Acres Development. (Tax Map I.D. 3-34-20.13-140.00)

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

Ms. Thibodeau presented the case. Bruce Kauffman and Maryanne Kauffman were sworn in and testified requesting a variance of 8.3 feet from the thirty (30) feet front yard setback requirement for a proposed porch. Mr. Kauffman testified that the Applicants have lived on the Property since May 2013; that the Applicants would like to build a small porch in front of the dwelling; that the original dwelling was constructed in the 1960s; that the Applicants have a survey of the neighborhood which shows that the average front yard setback in the neighborhood is approximately 18.5 feet; that the proposed porch will still be further back than any other structures on the street; that the Property is unique due to the fact that the dwelling was built in the 1960s; that a porch cannot be built without a variance; that the variance will not alter the character of the neighborhood; that the porch will be similar to other porches in the neighborhood; that the variance will not be detrimental to the public welfare; that the variance is necessary to enable reasonable use of the Property; and that the variance is the minimum variance to afford relief. Mr. & Mrs. Kauffman submitted exhibits to the Board for consideration.

Mrs. Kauffman testified that the property line is seventeen (17) feet from the edge of the road whereas other properties in the neighborhood are ten (10) feet from the edge of the road; that the porch is only six (6) feet deep and extends across half of the front of the dwelling; that the opening of the front door is oddly configured which makes it difficult for emergency personnel to enter the dwelling; and that the variance would enable reasonable use of 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 Variance Application No. 11295 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The setbacks in the neighborhood create a unique situation;
2. The variance is necessary to enable reasonable use of the Property;
3. The difficulty was not created by the Applicants;
4. The variance will not alter the essential character of the neighborhood; and
5. The variance sought is the minimum variance necessary to afford relief.

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

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

### **OLD BUSINESS**

**Case No. 11281 – Mr. & Mrs. Ali Kazemzadeh** – southwest corner Dune Road and Short Road within Middlesex Beach east of Route One. (Tax Map I.D. 1-34-17.16-52.00)

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

Mr. Rickard stated that he listened to the audio from the October 21, 2013 public hearing and that he reviewed the public record for this Application.

The Board discussed the case which had been tabled since October 21, 2013.

Mr. Mills stated that he would move that the Board recommend denial of Variance Application No. 11281 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The Applicant does not meet the standards for granting a variance;
2. The variance is not necessary to enable reasonable use of the Property; and
3. The difficulty has been created by the Applicant.

Motion by Mr. Mills, seconded by Mr. Rickard, and carried unanimously that the variance be **denied 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. 11285 – Barry Peterman & Wendy Peterman** – southeast of Road 625 (Clendaniel Road) 1,700 feet northeast of Road 42 (North Union Church Road). (Tax Map I.D. 2-30-12.00-69.00)

An application for a special use exception for a rifle / pistol range.

Mr. Rickard stated that he listened to the audio for the October 21, 2013 public hearings and reviewed the public record for this Application.

The Board discussed the case which had been tabled since October 21, 2013.

Mr. Rickard stated that he would move that the Board recommend denial of Special Use Exception Application No. 11285 for the requested special use exception based on the record made at the public hearing and for the following reasons:

1. The Applicants did not meet the standards for granting a special use exception;
2. The use does substantially adversely affect the uses of the adjacent and neighboring properties.

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

**Meeting Adjourned 9:24 p.m.**