

MINUTES OF MARCH 6, 2017

The regular meeting of the Sussex County Board of Adjustment was held on Monday, March 6, 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, Mr. John Mills, Mr. Jeff Hudson, Mr. Norman Rickard, and Mr. Brent Workman. Also in attendance were Mr. James Sharp – Assistant County Attorney, Mr. Vince Robertson – Assistant County Attorney, and staff members Ms. Janelle Cornwell – Director of Planning and Zoning, Mrs. Jennifer Walls – Planning Manager, Mrs. Jennifer Norwood – Planning Technician, and Ms. Christin Headley – Recording Secretary.

The Pledge of Allegiance was led by Mr. Callaway.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to move Case No. 11910 – Rev. Marcellin Lesly and Case No. 11925 – Eric C. Howard to the beginning of the public hearings and to approve the Revised Agenda as amended. Motion carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes and Finding of Facts for February 6, 2017 with an amendment to correct the date of the Findings of Facts for Case No. 11900 – Rodney Mears & Beverly Mears. 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. 11910 – Rev. Marcellin Lesly - seeks a special use exception to use a manufactured home type structure for a classroom (Sections 115-23A and 115-210A(1) of the Sussex County Zoning Code). The property is located on the south side of Seashore Highway approximately 1.18 miles east of Rum Bridge Road. 911 Address: 16526 Seashore Highway, Georgetown. Zoning District: AR-1. Tax Map No.: 2-31-7.00-30.04.

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

Mr. Sharp advised the Board that he has a conflict of interest and must recuse himself from this application.

Mr. Robertson was present to provide legal advice to the Board.

No one appeared on behalf of the Application.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to move the case to

the end of the public hearings to give time for the Applicant to appear. Motion carried 5 – 0.

At the end of the public hearings, the Chairman referred back to this case. The Board found that no one appeared on behalf of the Application.

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 **denied due to lack of representation.** 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. 11925 – Eric C. Howard - seeks a determination of an existing borrow pit (Section 115-202 of the Sussex County Zoning Code). The property is located on the south side of Pine Haven Road approximately 1,745 feet east of Cedar Creek Road (Route 30). 911 Address: 22006 Pine Haven Road, Lincoln. Zoning District: AR-1. Tax Map No.: 2-30-7.00-42.03

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning received no correspondence in support of the Application and four (4) letters of opposition to the Application and read the letters into the record.

Mr. Sharp advised the Board that he has a conflict of interest and must recuse himself from this application.

Mr. Robertson was present to provide legal advice to the Board.

Francis B. Webb and Timothy Webb were sworn in to testify about the Application. Richard Berl, Jr., Esquire of Berl & Feinberg, LLP, presented the case on behalf of the Applicant and submitted exhibits and documentation of a power of attorney for the Board to review.

Mr. Berl stated that the Application refers to Chapter 115, Article 26, Section 202, Determination of existence; that Eric Howard is the owner of the Property; that Francis Webb is present on behalf of Mr. Howard due to power of attorney; that the Property was previously owned by Mr. Howard's father, Eugene Trotter; that the Property was known as "Trotter's Pit"; that Mr. Webb brokered dump trucks in the early to mid-1960's and used the aforementioned borrow pit; that Timothy Webb, brother to Francis Webb is the owner of Del Homes; that Lindstrom Excavation most recently used the site for a state project, the Mispillion Lighthouse; that the pit is not used often but has been used repeatedly in the last 45 years; that this is not a new application; and that the Application is simply asking if the site has been a borrow pit.

Francis Webb and Timothy Webb, under oath, affirmed the statements made by Mr. Berl.

Mr. Rickard stated that borrow pits have been a part of Sussex County for years.

Mr. Berl stated that the County thought the pit was no longer in use; that the Delaware Department of Transportation (“DelDOT”) asked questions concerning the pit still being used; that Mr. Webb deals directly with the companies who come in and haul dirt out of the site; that a lease of the Property to Mr. Webb started in 2015 for the duration of 25 years; that the Webb brothers are not exclusive borrowers from the pit; that the pit is frequently used, at least once a year; and that the letter from Dale Cohee, included in the exhibit, states that he has utilized the pit for at least 50 years, averaging 8-10 times per year.

James Bell was sworn in to testify in opposition to the Application. Mr. Bell testified that the site has no signs of holes; that there is no equipment, such as an excavator, located at the site; that he is a dump truck driver; that he has no knowledge of the history of the pit; that his back yard is directly behind the site; and that there was no activity at the site from 2013-2015.

Ezekial Vetrum was sworn in to testify in opposition to the Application. Mr. Vetrum testified that he lives across the street; that the site had no activity until last year; that he moved to his current home in 2013; that the two different entrances cause concern for safety; and that the site had no activity until one year ago.

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

The Board found that two (2) parties appeared in opposition to the Application.

Mr. Rickard moved to approve Special Use Exception Application No. 11925 for the requested special use exception based on the record made at the public hearing because the Application does not affect neighboring properties.

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

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

Case No. 11904 – David Goodrich & Heather Goodrich - seek variances from the front yard and side yard setback requirements (Sections 115-82B and 115-182D of the Sussex County Zoning Code). The property is located on the south side of Delaware Avenue approximately 153 feet east of Coastal Highway (Route 1) Fenwick Island. 911 Address: None Available. Zoning District: C-1. Tax Map No.: 1-34-23.20-137.00.

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

Heather Goodrich was sworn in to testify about the Application. Tim Willard, Esquire, presented the case on behalf of the Applicants and submitted exhibits for the Board to review.

Mr. Willard stated that the Applicants are requesting a variance of 13.8 feet from the thirty (30) feet front yard setback requirement for a proposed dwelling, a variance of 17.8 feet from the thirty (30) feet front yard setback requirement for proposed steps, a variance of 3.2 feet from the ten (10) feet side yard setback requirement on the east side for a proposed dwelling, and a variance of 2.0 feet from the ten (10) feet side yard setback requirement on the west side for a proposed dwelling; that the lot had a dwelling, shed, and concrete pad; that the existing dwelling and concrete pad have been removed; that the existing shed will be removed; that the house was built in the 1940s; that the lot measures 50 feet by 100 feet, which is relatively small; that a series of unique circumstances have created an exceptional practical difficulty; that the lot is a part of the southernmost lands of Fenwick Island which are not in town limits; that the lot is zoned C-1 Commercial; that there are a wide variety of uses on adjacent properties; that the side yard setback requirement for a commercial building is five feet but the side yard setback requirement for a dwelling it is ten feet; that the Property fronts on the south side of Delaware Avenue; that there are two existing buildings located on the south side of the street; that a Candy Kitchen is located on the west side; that Rickmor Hotel is located nearby as well and is owned by the Applicants' family; that those buildings are approximately 16 feet from Delaware Avenue; that the proposed dwelling is consistent with the front yard setbacks for other structures in the neighborhood; that Candy Kitchen is set back approximately 2 feet from the side yard; that many of the properties in the neighborhood were developed prior to the enactment of the Sussex County Zoning Code; that there have been well over one dozen variances approved on neighboring properties; that the variances will not have an impact on the uses of neighboring properties; that the Board has previously noted the unique circumstances on nearby properties as well; that the Property is unique because it is a commercially zoned property used for residential use; that the variances are necessary to enable reasonable use of the Property; that the conditions were not created by the Applicants; that the variances will improve the character of the neighborhood; that the variances are needed to construct a modest, single-family home; that the variances requested are the minimum variances necessary to afford relief; and that the front yard variances are for a porch and steps.

Mrs. Goodrich, under oath, affirmed the statements made by Mr. Willard. Mrs. Goodrich testified that the proposed dwelling will consist of approximately 2,000 square feet; that the proposed home is one of the smaller homes to choose from; and that the edge of paving for Delaware Avenue meets the front property line.

Mr. Willard stated that the rear of the proposed dwelling cannot be moved to the rear because of an existing fence.

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

Mr. Mills moved to approve Variance Application No. 11904 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The Property is unique due to its size and the development of neighboring properties;
2. The variances are necessary to enable reasonable use of the Property;
3. The exceptional practical difficulty was 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. Mills, seconded by Mr. Hudson, and carried unanimously that the variances be **granted for the reasons stated**. Motion carried 5 – 0.

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

Case No. 11907 – Edward L. Cline, Sr. - seek variances from the side yard and rear setback requirements (Section 115-185F of the Sussex County Zoning Code). The property is located on the southwest side of Woodland Circle across from Holly Way East. 911 Address: 33359 Woodland Circle, Lewes. Zoning District: AR-1. Tax Map No.: 2-34-12.17-154.00.

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

Edward L. Cline Jr., was sworn in to testify about the Application. Shannon Carmean Burton, Esquire, presented the case on behalf of the Applicant and submitted exhibits for the Board to review.

Mrs. Burton stated that the Applicant is requesting a variance of 4.3 feet from the five (5) feet side yard setback requirement on the south side for an existing carport and a variance of 4.7 feet from the five (5) feet rear yard setback requirement for an existing carport; that there is an existing four (4) feet variance from the side yard setback requirement for the carport; that the Applicant is seeking an additional 0.3 feet variance to the already existing 4 feet variance; that the Applicant purchased the Property in 1983; that the original variance was granted in 2005 and the carport was constructed in 2006; that the Applicant had no other location available on the Property where he could still gain access with motor vehicles; that the septic system further limited the available location for the carport; that the Property is adjacent to common area in the rear; that the variances will not alter the essential character of the neighborhood; that neighbors and the homeowners association supported the initial application; that the Applicant obtained the necessary permits and constructed the carport; that a Certificate of Occupancy was issued in 2006 for the existing carport by Sussex County; that the owner's daughter has power of attorney; that the Applicant is selling the Property and a survey obtained as part of the settlement process showed the encroachments; that the Property is unique and is located in the Angola by the Bay development; that there have been numerous variances granted in the neighborhood; that there is no other place on the Property to locate the carport; that the common area adjacent to the Property is a naturally wooded open space; that the exceptional practical difficulty is due to the uniqueness of the Property; that the Property cannot be developed in strict conformity with the Sussex County Zoning Code; that the carport was placed on a concrete pad and has been in that location for over 10 years; that the variances are necessary to enable reasonable use of the Property; that the variances will not be detrimental to the public welfare; that there are letters in support of the Application from neighbors; that there have been no complaints from neighbors; that the variances are the minimum variances necessary to afford relief and represent the least modifications of the regulations at issue; and that the Applicant does not intend to increase the size of the carport.

Mr. Cline, under oath, affirmed the statements made by Mrs. Burton. Mr. Cline testified that he is the Applicant's son; that no additions have been made to the carport; and that the septic system located in the rear yard limited the placement of the carport.

Mrs. Burton stated that, before constructing the carport, the Applicant obtained a variance in 2005-2006.

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

Mr. Rickard moved to approve Variance Application No. 11907 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The variances are necessary to enable reasonable use of the Property;
2. The exceptional practical difficulty was not created by the Applicant; and
3. The variances will not alter the essential character of the neighborhood.

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. 11908 – N. Curtis Walls / Travis W. Walls - seek a special use exception to use a manufactured home type structure for an office (Sections 115-23A and 115-210A(1) of the Sussex County Zoning Code). The property is located on the east side of Clendaniel Pond Road approximately 636 feet north of Fleatown Road. 911 Address: 9483 Clendaniel Pond Road, Lincoln. Zoning District: AR-1. Tax Map No.: 2-30-13.00-148.00.

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to this application.

Curtis Walls and Travis Walls were sworn in to testify about the Application. David Hutt, Esquire, presented the case on behalf of the Applicants and submitted exhibits for the Board to review.

Mr. Hutt stated that the Applicants are requesting the use of a manufactured home as an office; that the Applicants own Delmarva Petroleum Service and the structure would be used for that business; that the Applicants purchased the Property in 2011; that the Property is zoned AR-1; that, on June 21, 2016, a conditional use was granted for the operation of the Applicants' contracting business; that Delmarva Petroleum Service's business has grown and the structure is needed to accommodate this growth; that the proposed manufactured home measures 13 feet wide by 70 feet long; that the drawing submitted with the Application mistakenly indicates that the unit will be 14 feet wide; that, while applying for the conditional use, a preliminary site plan was submitted; that the Applicants are in the process of obtaining final site plan approval for the conditional use; that the approved conditional use provides that all future structures on the site must be properly permitted; that the manufactured home would be maintained in good fashion just like the rest of the existing site;

that neighboring properties are used for agricultural and residential purposes; that manufactured homes exist on nearby properties as residential dwellings; that the structure will not substantially affect adverse the uses of neighboring and adjacent properties; and that the site plan presented in the exhibit book shows the proposed placement of the manufactured home.

Mr. Curtis Walls and Mr. Travis Walls, under oath, affirmed the statements made by Mr. Hutt.

Mr. Hutt stated that the Applicants are requesting the special use exception for a period of five (5) years.

Mr. Curtis Walls testified that they are the owners of the company; that the company is slowly growing; that the Applicants plan to only use the proposed manufactured home as an office for five years with hopes of continued expansion in the future; that the business operates from the site; that his other son lives on the Property, making him always available on site; that Delaware Petroleum Service services and installs petroleum equipment at retail locations; that no fuel is sold on the Property; that they make sure that petroleum equipment is maintained for their clients; that there will be no effect on neighboring properties; and that there was no discussion with the neighboring property owners.

Mr. Hutt stated that there was no objection from neighbors or the public at the hearings before the Planning and Zoning Commission or the County Council.

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

Mr. Mills moved to approve Special Use Exception Application No. 11908 for the requested special use exception based on the record made at the public hearing because the use will not substantially adversely affect the uses of the neighboring and adjacent properties.

Mr. Mills withdrew and amended his motion to include a limitation of the approval for a period of five (5) years.

Mr. Mills moved to approve Special Use Exception Application No. 11908 for the requested special use exception for a period of five (5) years based on the record made at the public hearing because the use will not substantially adversely affect the uses of the neighboring and adjacent properties.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the special use exception be **granted for a period of five (5) years for the reasons stated**. Motion carried 5 – 0.

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

Case No. 11909 – Frank Proctor - seeks a variance from the separation requirement between units (Section 115-188E(2) of the Sussex County Zoning Code). The property is located on the north side

of Ocean Vista Drive in the Bayville Shores development. 911 Address: 38331 Ocean Vista Drive, Unit 1156, Selbyville. Zoning District: HR-1-RPC. Tax Map No.: 5-33-13.00-2.00.

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

George Elliot and Ron Vendemia were sworn in and testified requesting a variance of 10.5 feet from the forty (40) feet separation distance requirement for a proposed deck and submitted a photograph to the record.

Mr. Vendemia testified that he and Mr. Elliot are present to represent the Applicant; that Coastal Services, LLC, is the company building the proposed deck; that Mr. Elliot is the owner of the company; that Mr. Vendemia is the project manager; that the variance is needed to construct a deck on Unit 1156; that the deck is required to be 40 feet from the next building; that the proposed deck will be wrapped around an end unit to keep it consistent with the rest of the development; that most decks measure 12 feet by 17 feet; that the proposed addition to the deck will measure 4 feet by 24 feet; that end units are allowed to have wrap around decks measuring 4 feet wide; that the deck on the neighboring unit encroaches into the separation distance requirement; that, if the owner of the neighboring unit had not built its deck, there would be no encroachment issue; that the road curves in front of the unit and causes the buildings to be located closer together than other buildings in the neighborhood; that no other buildings in the neighborhood are as close to each other as these two buildings; that all other buildings are uniform in separation distance; that the existing deck on the Property has been there for some time and the Applicant seeks to expand that deck to the east; and that he did not construct the deck or the deck on the neighboring building.

Ms. Cornwell stated that no variance was granted for the neighboring deck and that, if this variance is not granted, the neighbor would still need a variance for his deck.

Janet Duber was sworn in and testified in support of the Application and testified that she is the acting President of the Board of Directors of Bayville Shores; that the original developer added some decks as part of the original buildings; that the developer added decks to the second floors of buildings; that these two buildings were placed at an odd angle; that she was unaware that the neighboring deck was in violation of the setback requirements because the previous builder stated that all approvals had been received; that the developer placed the current deck on the Property; that the community has allowed for wrap-around decks such as the one proposed by the Applicant; that the homeowners association adopted a policy allowing decks on all units; that, after the developer left, homeowners debated whether to allow for individual decks; that there was very little opposition to the policy allowing for the individual decks; that the buildings are situated in such a fashion that views will not be obstructed; that the units within the building are offset so as to preserve views; that, on February 4, 2017, the Board of Directors approved the Applicant's proposed deck; that the association has approved approximately 65 decks since 2014; that she is unaware of any decks in the community which are in the same situation as the Applicant; that the contractor who built the deck on the neighboring unit is believed to have outstanding permits on file with Sussex County; and that the association has a rigid architectural review process.

The Board found that two (2) parties appeared in support of the Application.

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

Mr. Vendemia requested some additional time to review the standards for granting a variance and address those standards for the Board.

Motion by Mr. Mills, seconded by Mr. Rickard, and carried unanimously to **leave the case open and move the case to the end of the agenda to allow the Applicant time to review the standards of a variance and answer those standards.** Motion carried 5 – 0.

At the end of the Public Hearings, Mr. Elliot testified that the Property is narrow and has a unique angle; that the Applicant is trying to keep the deck uniform; that current architectural standards in the community would not allow the builder to deviate from the proposed deck; that no views will be obstructed by the proposed deck; that the deck will not affect neighboring properties; that the deck conforms with all other decks built on end units throughout the development; and that the variance would allow the builders the maximum space between buildings for the proposed deck.

Mr. Mills moved to approve Variance Application No. 11909 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The placement of the neighboring building, the construction of the neighboring deck, and the unique angling of the buildings have created a unique situation;
2. The exceptional practical difficulty was not created by the Applicant;
3. The variances will not alter the essential character of the neighborhood;
4. The deck conforms with the architectural standards of the community; and
5. The variances sought are the minimum variances necessary to afford relief.

Motion by Mr. Mills, seconded by Mr. Rickard, and carried unanimously that the 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. 11911 – Schell Brothers, LLC seeks a variance from the front yard setback (Section 115-34B of the Sussex County Zoning Code). The property is located on the north side of Ivory Gull Way approximately 425 feet east of Tributary Boulevard in Peninsula Lakes. 911 Address: 32252 Ivory Gull Way, Millsboro. Zoning District: MR-RPC. Tax Map No.: 2-34-29.00-1286.00.

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

Carmen Marinelli was sworn in and testified requesting a variance of 8.9 feet from the fifteen (15) feet front yard setback requirement for an existing handicap ramp and submitted pictures into the

record for the Board to review. Mr. Marinelli testified that the Applicant constructed a home for a retired, disabled veteran of the United States Airforce Air Force; that the Applicant built a customized home for the customer to accommodate the customer's disability; that hallways and doors were widened in the home; that the customer requested a ramp for the front of the home; that the ramp provides access to the home; that the Applicant constructed the ramp and did not learn of the encroachment until the as-built survey was completed; that the dwelling was constructed to comply with Americans with Disabilities Act ("ADA") requirements; that the dwelling was constructed using materials similar to other homes in the neighborhood; that the dwelling could not be moved closer to the rear yard; that no other homes in the neighborhood have a handicap ramp; that the Applicant received a temporary certificate of occupancy; that the Property has since been conveyed to the customer; that a right-of-way measuring 10 feet wide is located in the front yard; that the existence of the right-of-way gives the front yard the appearance that it is larger than it actually is; and that the Applicant has not received any complaints from neighbors.

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

Mr. Mills moved to approve Variance Application No. 11911 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The situation is unique due to its use for a handicapped retired veteran;
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 home was built with materials similar to other homes in the neighborhood; and
6. The variance sought is the minimum variance necessary to afford relief.

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

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

Case No. 11926 – Darlene Fenstermacher - seek variances from the front yard and side yard setback requirements (Section 115-34B and 115-182B of the Sussex County Zoning Code). The property is located on the south west corner of William F. Street and Fisher Street approximately 550 feet east of Coastal Highway (Route 1). 911 Address: 20636 Fisher Street, Rehoboth Beach. Zoning District: MR. Tax Map No.: 3-34-20.09-91.01.

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning received two (2) letters in support of the Application and the letters were read into the record and no correspondence in opposition to the Application.

Darlene Fenstermacher was sworn in and testified requesting a variance of 0.8 feet from the fifteen (15) feet side yard setback requirement on the east side for a proposed covered porch, a variance of 5.7 feet from the thirty (30) feet front yard setback requirement for a proposed porch,

and a variance of 1.4 feet from the ten (10) feet side yard setback requirement on the west side for a proposed dwelling; that the Property is unique because it is a corner lot; that there is currently a modular home on the Property and the Applicant intends to remove the existing dwelling; that the existing dwelling does not comply with the setback requirements; that the Applicant worked with a designer to try to design a home that would fit on the lot but the additional size of the home makes a big difference in the interior layout of the home; that the variance was not created by the Applicant; that the Applicant received approval in 2003 for a variance; that the proposed dwelling will improve the character of the neighborhood; that she spoke with two neighbors who both support the Application; that the variances requested are the minimum variances necessary to afford relief; that the proposed dwelling is two inches narrower than the existing dwelling; that the encroachment in the corner side yard is for a stoop to the covered porch and is only 6 feet wide; that the proposed dwelling will be two stories tall; that, if the lot was not a corner lot, only one variance would be needed; and that there is a large gap from Fisher Street and William F. Street to her property lines.

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

Mr. Rickard moved to approve Variance Application No. 11926 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 it being a corner lot and its size;
2. The exceptional practical difficulty was not created by the Applicant; and
3. The home is similar in size to the previous home on the Property.

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.

Meeting Adjourned 9:14 p.m.