

MINUTES OF APRIL 12, 2021

The regular meeting of the Sussex County Board of Adjustment was held on Monday, April 12, 2021, at 6:00 p.m. in the County Council Chamber, Sussex County Administration Office Building, Georgetown, Delaware.

The meeting was called to order at 6:00 p.m. with Chairman John Williamson presiding. The Board members present were: Dr. Kevin Carson, Mr. Jeff Chorman, Mr. John T. Hastings, Mr. John Williamson, and Mr. Brent Workman. Also, in attendance were Mr. James Sharp, Esquire – Assistant County Attorney, and staff members Ms. Jennifer Norwood – Planning and Zoning Manager, Ms. Lauren DeVore – Planner III and Ms. Ann Lepore – Recording Secretary.

The Pledge of Allegiance was led by Mr. Williamson.

Motion by Dr. Carson, seconded by Mr. Chorman, and carried unanimously to approve the agenda as presented. Motion carried 5 – 0.

The vote by roll call; Mr. Workman – yea, Mr. Williamson – yea, Dr. Carson – yea, Mr. Hastings – yea and Mr. Chorman - yea.

Motion by Mr. Chorman, seconded by Mr. Hastings, and carried unanimously to approve the Minutes for the February 1, 2021, meeting. Motion carried 5 – 0.

The vote by roll call; Mr. Williamson – yea, Mr. Workman – yea, Dr. Carson – yea, Mr. Hastings – yea and Mr. Chorman - yea.

Motion by Mr. Hastings, seconded by Mr. Chorman, and carried to approve the Findings of Facts for the February 1, 2021, meeting. Motion carried 5 – 0.

The vote by roll call; Mr. Williamson – yea, Mr. Workman – yea, Dr. Carson – yea, Mr. Hastings – yea and Mr. Chorman - yea.

Motion by Mr. Chorman, seconded by Mr. Hastings, and carried unanimously to approve the Minutes for the February 15, 2021, meeting. Motion carried 5 – 0.

The vote by roll call; Mr. Williamson – yea, Mr. Workman – yea, Dr. Carson – yea, Mr. Hastings – yea and Mr. Chorman - yea.

Motion by Dr. Carson, seconded by Mr. Chorman, and carried to approve the Findings of Facts for the February 15, 2021, meeting. Motion carried 5 – 0.

The vote by roll call; Mr. Williamson – yea, Mr. Workman – yea, Dr. Carson – yea, Mr. Hastings – yea and Mr. Chorman - yea.

Mr. Sharp read a statement explaining how the Board of Adjustment meeting is conducted and the procedures for hearing the cases.

OLD BUSINESS

Case No. 12390 – Mary Lou Dickson (Noelle Rose Calzone) seeks a special use exception to operate a day care center (Sections 115-23 and 115-210 of the Sussex County Zoning Code). The property is located on the east side of John J. Williams Hwy. (Rt. 24) approximately 0.22 miles south of Angola Rd. 911 Address: 22467 John J. Williams Hwy., Lewes. Zoning District: AR-1. Tax Parcel: 234-11.00-56.01

Ms. Norwood presented the application, which had been left open at the Board's meeting on December 16, 2019, for the limited purpose of allowing the Applicants to submit a site plan. Ms. Norwood stated that the Applicant had been contacted regarding the site plan and stated that they are no longer seeking this request.

Mr. Sharp stated that the public records indicate that this property has since been sold and that the Applicant failed to submit a site plan as requested.

Mr. Hastings recused himself from voting as he was not present for the public hearing.

Mr. Workman moved to deny Case No. 12390 for the special use exception due to the lack of communication and submission of requested site plan.

Motion by Mr. Workman, seconded by Dr. Carson, carried that the **special use exception be denied for the reasons stated.** Motion carried 4 – 0.

The vote by roll call; Mr. Williamson – yea, Mr. Workman – yea, Dr. Carson – yea, and Mr. Chorman - yea.

PUBLIC HEARINGS

Case No. 12525 – East-Side Developers Group Inc. seek a special use exception to place an off premise sign and an electronic message center off-premise sign. (Sections 115-80, 115-81, 115-159.5, 115-161.1 & 115-210 of the Sussex County Zoning Code). The property is located on the east side of DuPont Boulevard (Rt. 113) approximately 579 feet south of Frankford Avenue. 911 Address: 34425 DuPont Boulevard, Frankford. Zoning District: C-1. Tax Parcel: 433-11.00-21.01

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application and zero mail returns. The Applicant is requesting a special use exception to place a 15' x 30' 2-sided billboard of which the south side would be a LED electronic message center and the north side would be a static sign.

Mr. James Parker was sworn in to give testimony about the Application.

Mr. Parker testified that he is present on behalf of East-Side Developers Group and the request is to place a billboard at 34425 DuPont Boulevard in Frankford; that the property is zoned General Commercial (C-1) and consists of 1.028 acres; that the property is currently vacant and undeveloped; that the request is for an off-premise billboard where one side would be static vinyl and the other side would be an electronic message center; that DelDOT has issued a letter of no objection to the proposed billboard; that the sign area would measure 15 feet tall by 30 feet wide totaling 450 square feet; that the billboard is under the maximum size allowed by code for a sign along a four-lane highway; that the sign would have a maximum height of 33 feet and mounted on a 20 inch diameter steel monopole; that it will be installed 40 feet from the front property line which fronts along Route 113; that the proposed sign meets all setback requirements; that the proposed sign is 2,112 feet from an existing billboard on the north and 556 feet from an existing billboard on the south on the opposite side of the highway; that the sign will be V-shaped; that there are no off-premise electronic message centers within four miles of this property; that there are no properties with dwellings, churches, or public buildings within 150 feet of the proposed sign; that the proposed sign will not substantially adversely affect the uses of neighboring or adjacent properties; that the property to the south is commercially zoned and is currently being used for agricultural purposes; that the property to the north is a commercial building complex which is owned by the Applicant; that the billboard poses no fire or other hazard and will not affect property values or traffic; that the sign will not be a public nuisance and will meet all the brightness standards required by Sussex County Code; that the operation will have a maximum of eight ads on the electronic side and one on the static side and each electronic sign copy will be fixed for a minimum of ten seconds; that the sign will default to shut down should there be any malfunctions; that messaging will be still and will not have flashing lights or animation; that the electronic message center will have automatic dimmer controls to control lighting level during darkness hours to comply with the illumination standards required by Sussex County; that the electronic message center will have no audio or noise; that the off-premises sign will be an opportunity for local businesses to advertise; that it will not be leased for advertisement until the Board makes a decision; that there are no plans at this time to develop the property further; that the sign will be greater than 150 feet from the nearest property with a dwelling; that the property to the south is building a commercial warehouse; and that there is an intervening commercial property between this site and the property with a house located to the south.

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

Mr. Williamson closed the public hearing.

Dr. Carson moved to approve Case No. 12525, pending final written decision, for the requested special use exception as the use will not substantially adversely affect the uses of adjacent or neighboring properties.

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

The vote by roll call; Mr. Workman – yea, Mr. Williamson – yea, Dr. Carson – yea, Mr. Hastings – yea and Mr. Chorman - yea.

Case No. 12536 – Gary M. Desch & Judd M. Elkins seeks a variance from the side yard setback requirements for an existing structure (Sections 115-42, 115-183 and 115-185 of the Sussex County Zoning Code). The property is located on the southwest side of Gracie Lane within the Beachwoods I Subdivision. 911 Address: 33132 Gracie Lane, Lewes. Zoning District: GR. Tax Parcel: 334-11.00-104.11

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application and one mail return. The Applicant is requesting a 5.9 ft. variance from the required 10 ft. side yard setback on the southeast side for an existing covered deck. Ms. Norwood stated that an Administrative Correction was approved for the existing dwelling and deck with steps as a Certificate of Occupancy was issued in error in 1981.

The Board found that Ms. Shannon Carmean Burton, Esq. was present on behalf of the Applicants Gary Desch and Judd Elkins.

Mrs. Burton stated that the Applicants are requesting a 5.9-ft. variance from the side yard setback requirement of 10 ft. for an existing unenclosed covered deck; that Mr. Desch is present; that exhibit books have been submitted as part of the record; that the exhibit books include letters of support from neighboring properties including the neighbor who would be most impacted by this variance if granted; that the Applicants entered into a contract in December 2020 to sell the property; that, prior to closing on the property, the purchasers engaged Cotten Engineering to prepare a boundary survey of the property; that the survey revealed that the unenclosed covered deck, the shed, and the deck encroached into the side yard setbacks; that, prior to receipt of the survey, the Applicants were unaware of any encroachments or violations and promptly filed for a variance for the unenclosed covered deck to bring the property into compliance with Sussex County Zoning Code; that there is no variance being sought for the other deck or the shed; that the shed will be relocated to comply with the 5 feet setback requirement allowed by code; that an administrative variance was issued for the other deck; that the property is unique as it is an irregular shaped lot located on a private road named Gracie Lane; that it is a heavily wooded area and photographs have been submitted; that the exceptional practical difficulty is due to the uniqueness of the property and not due to provisions of the Sussex County Zoning Code; that there is no possibility that the property can be developed in strict conformity with the Zoning Code as it is an existing structure and it would be necessary to remove a portion of the deck and roof; that it has been in its current location since 2014 with no complaints from neighbors; that the variance is necessary to enable the reasonable use of the Property; that the exceptional practical difficulty was not created by the Applicants as a contractor was engaged

to extend the deck and construct a cover to provide shade; that the Applicants were unaware that the improvements encroached into the side yard setback until the recent survey of the property was completed; that granting the variance will not alter the essential character of the neighborhood, nor will it substantially or permanently impair the use of adjacent properties or be detrimental to the public welfare; that the neighboring property owner does not oppose this application; that the variance represents the minimum variance that will afford relief and represents the least modification possible of the regulation in issue; and that the Applicants simply seek to bring the existing improvements into compliance with the Zoning Code.

Mr. Gary Desch was sworn in to give testimony about the Application.

Mr. Desch affirmed the statements made by Mrs. Burton as true and correct.

Mr. Desch testified that the property is heavily wooded; that there are many trees which act as buffers between his property and the adjacent property; that a contractor was engaged to complete the work in 2014; that the construction was completed without permits unbeknownst to the Applicants; that the Applicants do not remember the name of the contractor; that there is approximately 4 – 5 car lengths between the deck and the house on the adjacent property; that this request is strictly to bring the existing non-conformity into compliance with the County Zoning Code; that there is a mound septic system in the front of the property; and that, because the lot has such a unique shape, it was difficult to determine where the lot lines are located.

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

Mr. Williamson closed the public hearing.

Mr. Hastings moved to approve Case No. 12536 for the requested variance for the following reasons:

1. The exceptional practical difficulty was not created by the Applicants;
2. The variances will not alter the essential character of the neighborhood nor substantially or permanently impair the appropriate use or development of adjacent property; and
3. The variance represents the minimum variance necessary to afford relief and represents the least modification of the regulation at issue.

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

The vote by roll call; Mr. Workman – yea, Mr. Williamson – yea, Dr. Carson – yea, Mr. Hastings – yea and Mr. Chorman - yea.

Case No. 12537 – Alieca Mollock seeks a special use exception to operate a day care center (Sections 115-23 and 115-210 of the Sussex County Zoning Code). The property is located on the west side of Jamore Drive within the Beaver Dam Heights Subdivision. 911 Address: 24188 Jamore Drive, Seaford. Zoning District: AR-1. Tax Parcel: 331-6.00-194.00

Ms. DeVore presented the case and stated that the Office of Planning and Zoning received five letters in support of and none in opposition to the Application and zero mail returns.

Ms. Alieca Mollock was sworn in to give testimony about her Application.

Ms. Mollock testified that she is the owner and sole provider at her family daycare, which is called Kingdom Kids Childcare; that she currently cares for six children; that she is licensed to care for nine children because of the square footage in her daycare room; that the request is to increase the capacity; that there are several people on a waiting list; that the daycare will not affect the adjacent and neighboring properties; that the hours of operation are 7:00 am – 5:00 pm; that currently under her care are four preschool children and two school age children; that, if the special use exception is approved, there will be six preschool children and three school age children; that there are no other employees; that the daycare has been operating since 2019 and there have been no complaints from neighbors; that it is located in her home which is in a residential area; that there are staggered drop off times; that there are two outdoor play areas which are not fenced; and that there are letters of support included with the application.

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

Mr. Williamson closed the public hearing.

Mr. Hastings moved to approve Case No. 12537, pending final written decision, for the requested special use exception to increase the number of children in the daycare to nine.

Motion by Hastings, seconded by Mr. Workman, 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. Williamson – yea, Dr. Carson – yea, Mr. Hastings – yea and Mr. Chorman - yea.

Case No. 12538 – Marc Forman seeks variances from the side yard setback requirements for proposed structures (Sections 115-25, 115-183 and 115-185 of the Sussex County Zoning Code). The property is located on the east side of Reynolds Road approximately 807 ft. northwest of Zion Church Road. 911 Address: 12921 Reynolds Road, Milton. Zoning District: AR-1. Tax Parcel: 235-8.00-18.00

Ms. DeVore presented the case and stated that the Office of Planning and Zoning received no

correspondence in support of or in opposition to the Application and one mail return. The Applicant is requesting a 5 ft. variance from the required 10 ft. side yard setback on the north side for a proposed addition and HVAC.

Mr. Marc Forman was sworn in to give testimony about his Application.

Mr. Forman testified that he is requesting a 5-foot variance on the northeast side of his property to build a two-car garage with a bathroom and bedroom to the rear; that the septic system is in the rear yard; that there are detached garages in the neighborhood; that the property has a unique parallelogram shape and the dwelling is placed square to the front and back boundaries; that this unique shape created an angled setback that is wider at the back of the house and narrow towards the front; that the existing septic field and mature tree limit the ability to enable the reasonable use of the property and the property cannot be otherwise developed for a two-car garage and addition; that the rest is for an attached 2 car garage with bedroom, bathroom, and laundry room; that the exceptional practical difficulty was not created by the Applicant but by the uniqueness of the property, the placement of the septic field, and the location of the mature trees; that granting the variance will not alter the essential character of the neighborhood; that the neighborhood is a quiet, single-family residential neighborhood; that the design will complement the existing architecture and location of garages and additions that exist on other properties in the area; that the adjacent neighbor has submitted a letter of support; that the variance requested is the minimum variance that will afford relief to safely place a standard width two car garage; that the house currently has two bedrooms and one bathroom; that the septic system has been updated and is approved for three bedrooms and two bathrooms; that the HVAC system could possibly be placed in the rear but plans have not yet been prepared for the garage and addition; that he is working with an engineer; that an outside HVAC system is needed; that he bought the property in 2019; that the addition will be 45 feet long and 24 feet wide; that the garage will measure 24 feet by 24 feet; that the rest of the addition will be the bedroom, bathroom, and laundry room area; that he may enclose part of the deck; and that no steps are required for the addition as it will be at ground level.

Mr. Chorman noted that there is a shed on the property and asked if a variance is needed for the shed.

Mr. Sharp stated that the shed meets the setbacks; and that, per Sussex County Code, a building of less than 600 square feet may have 5-foot setbacks from the side and rear property lines.

Dr. Carson expressed concern that the drawing submitted by the Applicant is hand-drawn and may not be accurate as to the variances requested.

Mr. Forman testified that the septic system is located to the south of the deck; that the septic system goes straight back to the shed; that the septic system takes up most of the building envelope; that he thinks he can put the HVAC in compliance with the setback requirements; and that he is willing to reach out to a surveyor.

Mr. Workman also stated that an updated site plan would be helpful.

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

Mr. Williamson closed the public hearing.

Mr. Chorman moved to keep the record open for Case No. 12538 for the limited purpose of allowing the Applicant to submit a proposed site plan within 60 days and, upon its receipt, that the hearing be scheduled for the next available Board meeting.

Motion by Mr. Chorman, seconded by Dr. Carson, carried unanimously to **leave the Application open for the limited purposes as stated in the motion.** Motion carried 5 – 0.

The vote by roll call; Mr. Workman – yea, Mr. Williamson – yea, Dr. Carson – yea, Mr. Hastings – yea and Mr. Chorman - yea.

Case No. 12539 – Russell & Iris Hobbs seek variances from the front yard setback requirements for existing and proposed structures (Sections 115-34 and 115-182 of the Sussex County Zoning Code). The property is located on the east side of Keenwick Road within the Keenwick Subdivision. 911 Address: 38153 Keenwick Road, Selbyville. Zoning District: MR. Tax Parcel: 533-20.09-75.00

Ms. DeVore presented the case and stated that the Office of Planning and Zoning received two letters in support of and none in opposition to the Application and zero mail returns. The Applicants are requesting a 0.2 ft. variance from the required 30 ft. front yard setback for an existing dwelling, a 1.6 ft. variance from the required 30 ft. front yard setback for an existing porch and a 4.2 ft. variance from the required 30 ft. front yard setback for a proposed porch and addition.

Ms. Iris Hobbs was sworn in to give testimony about his Application.

Ms. Hobbs testified that the home was purchased 15 years ago; that the Applicants now realize that they need to make some improvements in order to age in place; that the access to the mechanical room is on the outside of the house; that access to the mechanical room has become impractical; that an addition could be built to allow access from within the home but the addition would require a variance; that, if the variances were granted, the front yard setback would still meet the requirements of the subdivision; that the dwelling is currently set farther back than neighboring homes so this will make it more uniform with the other homes in the community; that letters of support have been submitted by the adjacent neighbors; that approval was given by the HOA building committee; that upgrades will give the dwelling more curb appeal; that this addition will make the home safer by having an additional egress in case of fire or other peril; that the requested variances are the minimum variances to afford relief; that they have consulted with builders and the addition will afford them access to the mechanical room from inside the home; that the living space will not be expanded; that

the laundry room will be extended for the purpose of having interior access to the dwelling's mechanical room; that the house was built by a prior owner; that the mechanicals cannot be relocated elsewhere on the lot; and there are no flooding issues on the property.

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

Mr. Williamson closed the public hearing.

Mr. Chorman moved to approve Case No. 12539, pending final written decision, for the requested variances for the following reasons:

1. The variances will not alter the essential character of the neighborhood nor substantially or permanently impair the appropriate use or development of adjacent property; and
2. The variances represent the minimum variances necessary to afford relief and represent the least modifications of the regulation at issue.

Motion by Mr. Chorman, seconded by Dr. Carson, carried unanimously that the **variances be granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Workman – yea, Mr. Williamson – yea, Dr. Carson – yea, Mr. Hastings – yea and Mr. Chorman - yea.

Case No. 12518 – Furniture & More seeks a special use exception to place a tent for special events (Sections 115-80 and 115-210 of the Sussex County Zoning Code). The property is located on the northeast side of Coastal Highway (Rt. 1) at the intersection of Munchy Branch Road. 911 Address: 19287 Coastal Highway, Rehoboth Beach. Zoning District: C-1. Tax Parcel: 334-13.00-325.04

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application and three mail returns. The Applicant is requesting a special use exception to place a tent for a period of five years; that this is the third request; and that the Board has approved two prior requests each for a period of five years.

The Board found that Mr. John Tracey, Esq., was present on behalf of the Applicant Furniture & More.

Mr. Tracey stated that this is the third request for a five year special use permit; that the tent will not be on the property for five years; that the tent will be used twice a year during the Memorial Day and Labor Day sales events; that the tent will be up for a period of 14 days for each sale from the beginning of set up until the final tear down; that the store fronts on Route 1 but the tent is placed on the Munchy Branch Road side of the property; that the tent sales are effective and generate more sales; that these sales have been happening for ten years with no complaints or issues; that there is no substantially adverse effect to adjacent or neighboring properties; that the Applicant rents U-Hauls

from the rear of the site; that the U-Haul business takes up 5-6 parking spaces and will not be impacted by this request.

Ms. Deborah Thompson Anderson was sworn in to give testimony about the Application.

Ms. Anderson affirmed the statements made by Mr. Tracey as true and correct.

Ms. Anderson testified that there is a U-Haul rental business and the vehicles are stored in a rear parking lot; that there have been no issues with parking; that there are other commercial businesses on the property; that there have been no complaints during the past tent events; that there is 24 hour security both with cameras and in-person; that the tent will measure 30 ft. by 60 ft.; that the tent will be up 14 days around Memorial Day and 14 days around Labor Day; that the tent will take up 7 parking spaces; that the tent will be in the same location as in prior years; and that there have been no issues with traffic or congestion related to the tent in prior years.

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

Mr. Williamson closed the public hearing.

Mr. Chorman moved to approve Case No. 12518, pending final written decision, for the requested special use exception for a period of five years as the use will not substantially adversely affect the uses of adjacent or neighboring properties. The approval was subject to the following conditions:

1. The tent shall be erected no more than 14 days during the Memorial Day event;
2. The tent shall be erected no more than 14 days during the Labor Day event;
3. The tent shall measure approximately 30 ft. by 60 ft.; and
4. The tent be located on the Munchy Branch side of the property as shown on the drawing submitted by the Applicant.

Motion by Mr. Chorman, seconded by Dr. Carson, carried unanimously that the **special use exception be granted with the stated conditions for the reasons stated.** Motion carried 5 – 0.

The vote by roll call; Mr. Workman – yea, Mr. Williamson – yea, Dr. Carson – yea, Mr. Hastings – yea and Mr. Chorman - yea.

Case No. 12540 – Rebecca Wright seeks a variance from maximum fence height requirement for an existing fence. (Sections 115-34, 115-182 and 115-185 of the Sussex County Zoning Code). The property is located at the intersection of Coastal Highway (Rt. 1) and Dodd Avenue within the Ann Acres Subdivision. 911 Address: 20994 Dodd Avenue, Rehoboth Beach. Zoning District: MR. Tax Parcel: 334-20.13-92.00

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received no correspondence in support of and nine letters in opposition to the Application and two mail returns. The Applicant is requesting a 0.5 ft. variance from the 3.5 ft. maximum height requirement for a fence in the front yard setback.

Ms. Rebecca Wright was sworn in to give testimony about his Application.

Ms. Wright testified that she is seeking a six inch height adjustment for the safety of her children and dogs; that a licensed fence company, LSG, was hired to install the fence; that the fence company stated that permits were not required; that she later learned of the issue; that the property is adjacent to Route 1 where cars drive fast; that she has large dogs which can clear a 3.5 foot tall fence; that a split rail fence was installed to allow for safety and visibility; that pictures have been submitted to show that visibility is not an issue; that there are other fences along Route 1 with a height greater than four feet; that the uniqueness of the property is that it is on a busy main road; that the lot is 50 feet by 100 feet; that the fence is purposefully split rail with wire mesh in order to allow for safety and visibility; that the fence was purposefully set back from Dodd Avenue so there would be no impact to visibility at the stop sign; that the exceptional practical difficulty was not created by the Applicant; that she bought the property in 2020 and improved the dwelling; that she chose a split rail fence to allow for better visibility; that the fence was installed in November 2020; that the side continued with the fence is the largest area on the property to allow safe access for children and dogs; that the proximity to a major highway makes this dangerous for both children and dogs; that the rear of the property is narrow and has large trees that could not be contained in the fenced area due to the growth of the trees and roots; that, even at four feet, the dogs can reach the top of the fence; that the setback to Coastal Highway was not created by the Applicant; that the speed of traffic is a safety issue; that the fence company failed to obtain the necessary permits; that the variance for the fence will not alter the essential character of the neighborhood and does not impair any neighbor; that natural wood and split rail with wire mesh was chosen in order to provide an aesthetically improved look and to provide full visibility; that landscaping is planned to add further improvement to the curb appeal; and that the request for a four foot safety fences is a six inch adjustment over the 3.5 ft. maximum.

Mr. Sharp stated that many of the letters of opposition referred to visibility issues caused by the fence.

Ms. Wright stated that she has enclosed pictures to show that visibility is not an issue and the constable that issued the violation also stated that the fence did not cause any issues with visibility.

Mr. William Percy Burton was sworn in to give testimony in opposition to the Application.

Mr. Burton testified that the fence causes visibility issues when entering onto Coastal Highway; that he has lived on Dodd Avenue for many years and there was never a fence there before; that he is not opposed to a fence but he is opposed to the location of the fence; and that he believes 6 inches will not make a difference.

Ms. Norwood advised Mr. Burton that the fence is permitted at 3.5 feet tall at this location.

Ms. Wright testified that pictures have been provided showing the visibility from the stop sign on Dodd Avenue and it shows that there are no visibility issues; and that there is 1 foot between the fence and the sidewalk.

The Board found that no one appeared in support of and two people appeared in opposition to the Application.

Mr. Williamson closed the public hearing.

Mr. Hastings moved to deny Case No. 12540 for the requested variance as it will cause safety issues which would alter the essential character of the neighborhood.

Motion by Mr. Hastings, seconded by Mr. Chorman, failed that the **variance be denied for the reasons stated**. Motion failed 2 -3.

The vote by roll call; Mr. Workman – nay, Mr. Williamson – nay, Dr. Carson – nay, Mr. Hastings – yea and Mr. Chorman - yea.

Dr. Carson moved to approve Case No. 12540 for the requested variance for the following reasons:

1. The variance will not alter the essential character of the neighborhood;
2. The exceptional practical difficulty was not created by the Applicant; and
3. The variance represents the minimum variance necessary to afford relief.

Motion by Dr. Carson, seconded by Mr. Workman, carried that the **variance be granted for the reasons stated**. Motion carried 3 – 2.

The vote by roll call; Mr. Workman – yea, Mr. Williamson – yea, Dr. Carson – yea, Mr. Hastings – nay and Mr. Chorman - nay.

Case No. 12550 – Timothy Ramey Construction, Inc. seeks a variance from the side yard setback requirement for an existing structure (Sections 115-25 and 115-183 of the Sussex County Zoning Code). The property is located on the east side of East Trap Pond Road approximately 352 ft. south of Phillips Hill Road. 911 Address: 31205 East Trap Pond Road, Laurel. Zoning District: AR-1. Tax Parcel: 232-20.00-20.25

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application and two mail returns. The

Applicant is requesting a 3.6 ft. variance from the required 15 ft. side yard setback on the south side for an existing dwelling.

Mr. Timothy Ramey was sworn in to give testimony about his Application.

Mr. Ramey testified that he has been building in Sussex County since 1995; that this is the first time he has had to request a variance; that the lots were cut out at an angle; that the survey marker was not in the correct location; that the back corner marker was marked in error for laying the foundation; that the front of the dwelling meets the setbacks; that the variance will not alter the essential character of the neighborhood as the dwelling is far away from the property line and is approximately 47 ft. away from the existing house on the adjacent property; that there are no steps or HVAC on this side of the property; and that there is a farm ditch on the right side of the adjacent property which is parallel with the lot line on the subject property.

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

Mr. Williamson closed the public hearing.

Dr. Carson moved to approve Case No. 12550 for the requested variance for the following reasons:

1. The variance will not alter the essential character of the neighborhood; and
2. The variance represents the minimum variance necessary to afford relief.

Motion by Dr. Carson, seconded by Mr. Hastings, carried unanimously that the **variance be granted for the reasons stated.** Motion carried 5 – 0.

The vote by roll call; Mr. Workman – yea, Mr. Williamson – yea, Dr. Carson – yea, Mr. Hastings – yea and Mr. Chorman - yea.

ADDITIONAL BUSINESS

Dr. Carson made a request to Mr. Sharp to send a letter to LSG Fencing regarding the County Zoning Code when in Sussex County.

Meeting adjourned at 8:00p.m.