

MINUTES OF AUGUST 5, 2019

The regular meeting of the Sussex County Board of Adjustment was held on Monday, August 5, 2019, 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 Chair Ellen Magee presiding. The Board members present were: Dr. Kevin Carson, Mr. Jeff Chorman, Ms. Ellen Magee, Mr. John Williamson, and Mr. Brent Workman. Also, in attendance were Mr. James Sharp, Esquire – Assistant County Attorney, and staff members Mr. Jamie Whitehouse – Planning Manager, Ms. Jennifer Norwood, Planner, and Ms. Ann Lepore – Recording Secretary.

The Pledge of Allegiance was led by Ms. Magee.

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

Motion by Mr. Workman, seconded by Mr. Williamson, and carried unanimously to approve the Minutes for the June 17, 2019, meeting. Motion carried 3 – 0.

Motion by Mr. Workman, seconded by Mr. Williamson, and carried unanimously to approve the Findings of Facts for the June 17, 2019, meeting. Motion carried 3 – 0.

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

PUBLIC HEARINGS

Case No. 12339 –Edward & Susan Rankin seek a variance from separation distance requirement for a proposed structure (Sections 115-25 and 115-172 of the Sussex County Zoning Code). The property is located on the east side of Lighthouse Ln. approximately 218 ft. north of Court Dr. in Long Neck Village. Address: 26033 Lighthouse Ln., Millsboro. Zoning District: AR-1. Tax Parcel: 234-24.00-40.02 Unit 13

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 four mail returns. The Applicant is requesting a variance of 8 ft. from the required 20 ft. separation distance from structures on Unit 12 for a proposed garage.

Edward Harrison Rankin, IV was sworn in to give testimony about the Application.

Mr. Rankin testified that he is requesting a variance from the separation distance to build a garage; that his neighbor's outdoor shower and deck is only approximately 1.5 feet from the property line; that the proposed garage would be 9.5 ft. from the property line; that the property is unique as it is a condominium association with rules which apply to a manufactured home park; that the lot is only 75 ft. wide; that it cannot otherwise be developed for a garage without the variance; that the

neighboring structures limit the building envelope; that it cannot be moved closer to the dwelling as the garage would block windows on that side of the home; that the exceptional practical difficulty was created by the neighbor's outdoor shower and steps being 1.5 ft off the property line; that the house was built by a prior owner; that the shed and outdoor shower shown on the survey were removed prior to his purchase of the lot; that it will not alter the essential character of the neighborhood as there are a number of garages in the development; that there is no opposition from neighbors or the homeowners association; that the property is serviced by community well and public sewer; that it is the minimum variance request to allow for a garage which will be used for boat storage and a woodworking shop; that the garage will meet all other setbacks; that the garage will be 11 feet from the side yard property line, 10 feet from the rear property line and 58 feet from the front property line.

Ms. Norwood advised the Board that the side yard setback requirement is 5 feet; and that Long Neck Village was originally a manufactured home park that was converted to a condominium.

Mr. Rankin testified that he will enter the garage from the front yard side of the garage; that he has no intention of creating a driveway; that the garage will be used for woodworking, crafts, and storage; that the house is small with limited storage; that the shed was too small for his needs and will be removed if the variance is approved; that, if the garage was moved closer to the road, it would be too close to the road and out of character for the neighborhood; and that there is a large tree on the site.

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

Dr. Carson moved to deny Application No. 12339 as the Applicant did not meet the criteria for granting a variance as the exceptional practical difficulty is being created by the Applicant due to the size of the proposed building.

Motion by Dr. Carson seconded by Mr. Chorman, and carried that the **variance be denied for the reasons stated**. Motion carried 5 – 0.

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

Case No. 12340– Robert Shipley seeks a variance from the front yard setback requirements for proposed steps (Sections 115-34 and 115-182 of the Sussex County Zoning Code). The property is located at the northwest corner of Water Walk Way and Fenwick Shoals Blvd. in the Fenwick Shoals subdivision. 911 Address: 38032 Fenwick Shoals Blvd., Selbyville. Zoning District: MR. Tax Parcel: 533-19.00-761.00

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 4.2 ft. variance from the required 30 ft. front yard setback for proposed 2nd story steps.

Robert Shipley was sworn in to give testimony about the Application.

Mr. Shipley testified that the property is a corner lot with a unique shape that narrows in; that the dwelling cannot otherwise be developed for steps due to the shape of the property; that neighbors and the homeowners association support the request; that there is a ditch located to the rear of the property; that he worked with an architect; that the direction of the steps cannot be changed due to the location of the garages; that the house will have 2 garages which be located on each side of the steps; that the architect looked at turning the steps but the steps would not meet code requirements; that the second floor of the home is the main living floor of the dwelling; that the house will be built on a slab and not on pilings; that the exceptional practical difficulty was not created by him; that the property had this unique shape when purchased; that it will not alter the essential character of the neighborhood as there are many other homes with similar steps leading to the second floor; that it is a minimum variance to allow for the steps to the dwelling; that the house is only 36 ft. deep; that the dwelling cannot be moved farther back on the property as it would then encroach into rear setbacks; that he designed the house to minimize the need for a variance; that the covered porch to the rear of the home has been shortened in width; that the house will consist of 4,500 square feet and 3 stories; that the homeowners association would not approved turned steps; that the house cannot be pushed towards the rear; that a neighbor received a similar variance; that the lot has no flooding problems; and that there is no difference between the front property line and the edge of paving of the adjacent road.

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

Dr. Carson moved to deny Application No. 12340 as the Applicant did not meet the criteria for granting a variance as the exceptional practical difficulty is being created by the Applicant due to the design of the proposed dwelling.

Motion by Dr. Carson, seconded by Mr. Chorman, and carried that the **variance be denied for the reasons stated**. Motion carried 5 - 0.

Case No. 12341 – Hilary T. & Clark B. Schenck seek variances from the front yard and side yard setback requirements for proposed structures (Sections 115-34 and 115-182 of the Sussex County Zoning Code). The property is located on the west side of South Ave. approximately 357 ft. north of Ann Ave. 911 Address: 20892 South Ave., Rehoboth Beach. Zoning District: MR. Tax Parcel: 334-20.09-197.00

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 six mail returns. The Applicants are requesting the following variances:

- 27.5 ft. from the required 30 ft. front yard setback for an existing dwelling.
- 0.2 ft. variance from the required 5 ft. side yard setback for an existing dwelling.
- 0.5 ft. variance from the required 5 ft. side yard setback for an existing dwelling.

Hilary Schenck was sworn in to give testimony about the Application. Ms. Schenck submitted exhibits to the Board members.

Ms. Schenck testified that the current dwelling is a non-conforming two-bedroom, one-bathroom home; that the proposal is for an addition of an additional bedroom and bathroom; that the property was built in 1959 and no improvements have been made since purchased by the Applicants in 2005; that the property is unique as it is a shallow lot with a non-conforming home built within current setback areas; that it cannot otherwise be developed as any expansion of the home would require a variance; that the exceptional practical difficulty was not created by the Applicants as the property was purchased with the dwelling in the current location; that it will not alter the essential character of the neighborhood as it will be compatible with the cottage style homes in the area; that the addition will consist of 760 square feet; that the current dwelling has ceilings measuring 6 feet tall; that she has elderly parents; and that it is a minimum variance to afford relief and allow the Applicants to “age in place”.

Mr. Sharp stated that the variances requested need to be updated based on the survey presented by the Applicants at this hearing and that the variances needed are as follows:

- A variance of 0.2 feet from the five (5) feet side yard setback requirement on the northwest side for an existing dwelling;
- A variance of 0.4 feet from the five (5) feet side yard setback requirement on the northwest side for an existing dwelling;
- A variance of 27.1 feet from the thirty (30) feet front yard setback requirement for an existing dwelling;
- A variance of 29 feet from the thirty (30) feet front yard setback requirement for an existing chimney;
- A variance of 29.1 feet from the thirty (30) feet front yard setback requirement for an existing chimney; and
- A variance of 27.6 feet from the thirty (30) feet front yard setback requirement for an existing dwelling.

Ms. Schenck testified that the addition will be constructed to the rear of the existing dwelling and will not be visible to neighbors; that the new HVAC system will be located to the rear of the addition and will be located within the building envelope; that the steps to the house are located to the south and east of the house; that the proposed steps would be moved to the front yard and steps would remain in the side yard; that the steps will be no wider than the existing chimney; that there is no second story planned with the addition; that the fence will be removed; that there is approximately 3 feet of grass between the edge of the fence to the edge of paving of South Avenue; that South Avenue

is a single lane road akin to a driveway; and that the Applicants worked with an architect.

Mr. Whitehouse advised the Board that the building is 50 feet deep; that the front yard setback is 30 feet; that the rear yard setback is 5 feet; and that the building envelope is 15 feet deep.

Wayne Handy was sworn in to give testimony in support of the Application.

Mr. Handy testified that he is the builder; that he has built two other homes in the area, that both received similar variances due to the non-conformity of the original dwellings; that the house was built on slab; that the options for the Applicants are to tear down or build an addition; that the road is narrow; that the addition is designed to work off the existing structure; that it would cost approximately 3 times as much to tear down and rebuild; that variances were granted for renovations on Lots 35 and 190; that Lot 190 is similar to this lot; and that the house cannot be lifted because it is not built on concrete blocks.

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

Mr. Chorman moved to approve Case No. 12341 because the Applicants have met the standards for granting a variance; that the lot is a non-conforming lot; and that the house was built by a prior owner. Mr. Chorman withdrew his motion due to a lack of a second.

Mr. Workman requested more information on the location of the steps.

Mr. Chorman moved to leave Case No. 12341 open for the limited purpose of allowing the Applicants to submit a new drawing or updated survey showing the location of the steps and other structures, such as HVAC systems, which may need a variance and that this information be provided to the Board by close of business on August 15, 2019. As part of the motion, Mr. Chorman moved that the Application be placed on the agenda for the Board's August 19, 2019, meeting.

Motion by Mr. Chorman, seconded by Mr. Workman, carried unanimously to **leave the record open for the limited purpose as stated and to place the Application on the agenda for the next meeting.** Motion carried 5 – 0.

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

Case No. 12342 – Toby M. & Alexandra M. Chrostowski seek variances from the front yard setback requirements for a proposed dwelling (Sections 115-34 and 115-182 of the Sussex County Zoning Code). The property is located on the north side of Baltimore St. approximately 226 ft. west of Andrew St. in the Bay View Park subdivision. 911 Address: 39667 Baltimore St., Bethany Beach. Zoning District: MR. Tax Parcel: 134-20.11-34.00

Ms. Norwood 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 one mail return; and that there were previous variances granted by the Board. The Board granted a variance of 5 feet from the 30 feet front yard setback requirement for a proposed dwelling in 2015 and the Board granted a variance of 0.9 feet from the 10 feet side yard setback requirement and a variance of 13.3 feet from the 30 feet front yard setback requirement for an existing dwelling and porch in 2017. The Applicants are requesting variances of 5 ft., 13.2 ft. and 13.3 ft. from the required 30 ft. front yard setback for a proposed dwelling.

Toby Chrostowski and Michael Wigley, Architect, were sworn in to give testimony about the Application. Mr. John Sergovic, Esquire, presented the Application on behalf of the Applicants and he submitted an additional letter of support and architectural renderings of the proposed dwelling.

Mr. Sergovic stated that this is an application for a proposed dwelling or to elevate the existing dwelling; that this property received prior variances; that due to economic reasons the building was not completed and the variance approvals expired; that the property is unique; that the lot is only 7,020 sf. and is an undersized lot for the MR district; that the property is located in Bayview Park; that the size of the property has created an exceptional practical difficulty; that the property abuts a tidal pond and is susceptible to flooding; that the property cannot be developed without the variance and the dwelling cannot be moved back on the property due to flooding; that, during Hurricane Sandy, water came within 6 inches of the dwelling; that the Applicants intend to bring the home into compliance with flood regulations; that the proposed dwelling will be built in the same footprint of the current dwelling; that it will not alter the essential character of the neighborhood as the home has been in the current location since the 1950s; that the variance is the same variance sought in 2016; that there have been no complaints from neighbors; and that it is the minimum variance that will afford relief to bring the existing dwelling into compliance with the flood plain elevation.

Mr. Wigley testified that he is the Applicants' engineer; that a decision will be made by the homeowner based on costs to either replace the dwelling or to elevate and remodel the current dwelling; that it will occupy the same footprint of the current dwelling; that a change in the ordinance means that side yard variances are no longer being requested; that the proposed dwelling will be the same depth as the current dwelling; that the proposed dwelling will be in keeping with the character of the neighborhood; and that the Applicants request the flexibility to elevate and renovate or to rebuild in this footprint as proposed.

Mr. Sergovic stated that the house does not conform with the front yard setback requirement; and that the change in the Code brought the side yard encroachment into compliance since the lot is undersized.

Mr. Chrostowski testified that it will cost more money to remodel the home; that the Applicants have not decided whether to remodel or to rebuild; that other homes in the neighborhood

encroach into the front yard setback; that he has received no complaints about the existing encroachment; that the intent is to meet the flood zone requirements; that flooding is now an issue; and that he affirmed the statements made by Mr. Sergovic as true and correct.

Mr. Sergovic stated that the Application differs from the prior application because the prior application was simply to elevate the home and this application is a request to elevate or to rebuild; and that the elevation allows for parking underneath the home which should alleviate congestion.

Mr. Quigley testified that the front yard will be the same but the steps will project 5 feet farther into the setback area.

Mr. Sharp advised the Applicants that the Application was only advertised for the dwelling and not the steps so the request for the encroachment of the steps cannot be considered.

Mr. Quigley testified that the steps were previously to the side yard; that the steps will project into the rear yard; that the HVAC system will comply with the setback requirements; and that there is approximately 30 feet from the house to the edge of paving.

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

Mr. Workman moved to approve Case No. 12342 because the Applicants have met the standards for granting a variance; that prior variances were granted; and that the house will project no farther than the existing house. This motion died for a lack of a second.

Mr. Workman moved to table Case No. 12342 until the August 5, 2019, meeting.

Motion by Mr. Workman, seconded by Mr. Chorman, carried unanimously to **table this case until the next meeting**. Motion carried 5 – 0.

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

Case No. 12343 – Donald Hall seeks a variance from the front yard and corner front setback requirements for proposed structures (Sections 115-82, 115-182 and 115-196 of the Sussex County Zoning Code). The property is located on the southwest corner of Central Ave. and Johnston St. 911 Address: 37386 Central Ave., Rehoboth Beach. Zoning District: C-1. Tax Parcel: 334-13.20-29.00

Mr. Whitehouse presented the case and stated that the Office of Planning and Zoning received no correspondence in support of the Application and one letter in opposition to the Application and six mail returns. The Applicant is requesting approval for the replacement of a non-conforming manufactured home in the C-1 Zoning District, as required by Section 115-196 of the Sussex County Zoning Code. The Applicant is also requesting a variance of 3.25 ft. from the required 30 ft. front

yard setback to Johnston Street for the existing manufactured home, and a variance of 9.83 ft. from the 30 ft. front yard setback for steps.

Brad Whaley, Community Director for Sussex County was sworn in to give testimony about the Application.

Mr. Whaley testified that his department works closely with H.U.D. to assist the family who resides at this property; that primarily the department assists with rehabilitation of the homes; that this home could not be renovated and had to be replaced; that the prior home had fallen into great disrepair; that replacement of manufactured homes is permissible under HUD rules; that the prior home has been demolished and removed; that the new manufactured home was placed in the same footprint of the old dwelling; that the new manufactured home is larger than the old dwelling but is the smallest manufactured home available; that the new home encroaches into the front yard setback; that the property is unique as the subdivision is over 80 years old; that the lots are small; that it could not be otherwise be developed as the lot is small and is also a corner lot; that the exceptional practical difficulty was not created by the Applicant as the original dwelling was unable to be renovated and had to be replaced; that the original manufactured home measured 12 feet by 56 feet; that the new home measures 14 feet by 70 feet; that it will not alter the essential character of the neighborhood as there are other manufactured homes in the area and this dwelling will be in better condition than the previous home on the property; that the prior home was on the property for many years; that 31% of the homes in the neighborhood are manufactured homes; that the neighboring homes measure 14 feet by 70 feet; that manufactured home is a 1997 model; that the Applicant had a limited budget from HUD to replace the home; that the home is in good shape; that the house will be 26.9 feet from the edge of pavement; that it is a minimum variance to place a 14 ft. X 70 ft. manufactured home on this property; and that the site is serviced by public water and sewer.

Mr. Whitehouse noted that no corner front yard variance is required.

Mr. Whaley testified that steps will be located to the rear of the house.

Eleanor Marchtmon, Barbara Baker and Carman Blackwell were sworn in to give testimony in support of the Application.

Ms. Marchtmon testified that she was the recipient of the other manufactured home; that her home had black mold; that she is afraid because others are coming in and building houses; that she lives in the neighborhood; that the Applicant's home was in terrible condition until Mr. Whaley stepped in; that she had a manufactured home measuring 14 feet by 70 feet; that her lot is larger (100'x75'); that she did not have setback issues and no variance was needed for her home; that she has lived in the neighborhood since 1968; that West Rehoboth has changed; and that she supports the Application for this family.

Ms. Baker testified that manufactured homes have always been in the area; that West

Rehoboth was historically a residential area but businesses have moved in the area; that the manufactured home should remain; that the Applicant needs a home; that there are several manufactured homes nearby; that the manufactured home will not change the neighborhood; that the community has historically been used for manufactured homes and used to be a manufactured home park; that there is a beer garden located across the street; and that she supports the variance request for this Applicant.

Ms. Blackwell testified that she supports the Application and asked the Board to grant the variance for the Applicant; that she lives in West Rehoboth; that the community was a manufactured home park when she grew up; that there is no yard; and that the variance is needed.

Richard Abbott, Esquire, appeared on behalf of a group of concerned property owners and tenants of West Rehoboth opposing the Application. Mr. Abbott submitted a letter of opposition, a handout, and a list of 15 commercial properties that in close proximity to the subject property.

Mr. Abbott stated that the property is in a commercial district; that the property is across the street from Revelation Brewing; that property owner did not provide running water to the tenant; that the lot was not always used as a manufactured home lot and, therefore, is not a permissible use; that the C-1 zoning does not allow manufactured homes as a matter of right; that the Sussex County Code designates this area as a commercial area; that, if the use is not a valid non-conforming use, this is not a permissible use; that, under the Delaware Code, the Board cannot grant a variance regarding use of land; that the parcel is not unique; that the property could be developed with a stick-built home within the building footprint; that the property can otherwise be developed; that the exceptional practical difficulty was created by the Applicant; that the variance alters the character of the neighborhood; that based on these reasons the Board should deny the variance; that a stick-built home would be okay; and that the issue is whether a manufactured home can be placed on the lot.

Mr. Whaley testified that this was a residential area although it was zoned commercial prior to the brewery and other businesses setting up in the area; that Mr. Hall does not object to the variance request; that he did not think Mr. Hall had the resources to maintain the home; that the Applicant could not attend tonight's meeting as she did not have transportation; that he does not know when the prior manufactured home was placed on the lot; that the current family has been on the property for 12 years but the home has been on the lot longer than that; and that this a rare situation and replacements are a last resort.

Ms. Marchtmon testified that she moved to the West Rehoboth area in 1968; that Mr. Hall's property was developed with a manufactured home at that time; that manufactured homes have been in West Rehoboth since that time; that there was a mix of the type of manufactured homes in the neighborhood; that she has been in her manufactured home for 17 years; and that the manufactured home recently removed from the property was on the Applicant's lot when her manufactured home was placed.

The Board found that four parties appeared in support of and one party appeared in opposition to the Application.

Mr. Whitehouse recited a portion of County Code 115-196; and stated that he disagrees with the opposition's argument that County Code 115-196 does not apply; and that staff takes the position that this is a non-conforming use.

Mr. Sharp stated that the history of the property would be important to review.

Mr. Workman moved to table Case No. 12343 until the August 5, 2019, meeting to allow staff and counsel to research the history and use of the property.

Motion by Mr. Workman, seconded by Mr. Chorman, carried to **table this case until the next meeting to allow for staff and legal counsel to do some further research regarding the history of the use of this property.** Motion carried 4 – 1.

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

The Board took a seven (7) minute recess.

Case No. 12344 – Southstar, L.P. requests a Special Use Exception to operate a Concrete Batch Plant (Sections 115-40 and 115-210 of the Sussex County Zoning Code). The property is located on the northwest side of Coverdale Rd. approximately 524 ft. northeast of Evans Dr. 911 Address: 20956 Coverdale Rd., Bridgeville. Zoning District: GR. Tax Parcel: 430-23.00-82.02

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 four mail returns. The Applicant is requesting a renewal of the Special Use Exception to operate a concrete batch plant for a period of five (5) years.

Kyle Murray and Edward Kaye were sworn in to give testimony about the Application. Mr. James Fuqua, Esquire, presented the Application on behalf of the Applicant. Mr. Fuqua submitted exhibits to Board members.

Mr. Fuqua explained the operations of a concrete batch plant and stated that the use has been in existence for nine (9) years; that the Applicant seeks a renewal of the special use exception; that the Code allows for approvals of up to five (5) years; that the Board initially granted a special use exception in November 2009 and renewed the approval in July 2014; that ownership of the concrete batch plant has passed from Mr. Kaye to Southstar L.P. which is owned by Chaney Enterprises; that there have been no changes in the use; that the plant is only a small portion of the overall site; that the property is surrounded by an existing berm along the front of the property; that there are 12 full-time

employees on site and 12 delivery truck drivers; that it provides a needed product for construction in the surrounding area; that the facility took a year to construct; that the Applicant operates similar facilities in Delaware, Maryland, Virginia, and the District of Columbia; that it does not substantially affect adversely adjacent and neighboring properties; that there have been no prior violations or complaints; that the location is appropriate for this facility; and that the facility is operated in a responsible and safe manner.

Mr. Murray and Mr. Kaye affirmed the statements made by Mr. Fuqua as true and correct.

Mr. Fuqua stated that the Applicant has an air quality permit from DNREC and the Applicant uses dust collectors.

Latanya Bruce and Evelyn Wilson were sworn in to give testimony in opposition of the Application.

Ms. Bruce testified that she lives in the nearby Coverdale Crossroads development; that she is opposed to the concrete batch plant because of the dust created by the plant and high traffic; that the plant has expanded and trees were knocked down; that the trees used to block views of the plant; and that she has concerns about the impact on wildlife and children.

Ms. Wilson testified that she is opposed to the concrete batch plant for the same reasons as Ms. Bruce; that the plant should not be near a residential area; and that the dust collectors do not work.

Ms. Bruce testified that berm is high around the plant; that there is a narrow strip of trees but the trees do not block her view of the site; that the borrow pit is deeper; and that the sandy area is needed as part of the plant.

Mr. Fuqua stated that there are two different uses in this area and this application is only concerning the concrete batch plant and not the sand excavation operation which is a long-standing non-conforming use surrounding the concrete batch plant; that the sand excavation is a separate operation and that the sand excavation operation has expanded but the concrete batch plant has not.

Mr. Murray testified that between 10-20 trucks exit the site on a daily basis; that the Applicant uses a water truck and dust collector to keep dust down; that the Applicant is willing to mitigate dust concerns; and that Southstar L.P. will meet with the neighbors to address the concerns raised.

The Board found that no parties appeared in support of and five (5) parties in opposition to the Application.

Mr. Williamson moved to approve Application No. 12344 for a Special Use Exception for a period of five (5) years as it will not substantially affect adversely the uses of adjacent and neighboring

properties. Mr. Williamson noted that the Applicant should meet with the neighbors to address concerns as part of the motion.

Motion by Mr. Williamson, seconded by Dr. Carson, and carried that the **special use exception be granted for a period of five (5) years with conditions for the reasons stated.** Motion carried 5 - 0.

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

OLD BUSINESS

Case No. 12336 – Michael & Donna Beck seek variances from the rear 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 north side of William Dorsey St. approximately 595 ft. west of Silo Blvd. in the Lewes Crossing subdivision. 911 Address: 14503 William Dorsey St., Lewes. Zoning District: AR-1. Tax Parcel: 334-5.00-1438.00

Mr. Whitehouse presented the case which was tabled at the Board's meeting on July 15, 2019.

The Board discussed the Application.

Dr. Carson moved to approve Application No. 12336 pending written decision as the Applicants have met all the criteria for granting a variance.

Dr. Carson moved, seconded by Mr. Chorman, and carried that the **variances be granted for the reasons stated.** Motion carried 4 – 1.

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

Case No. 12338 – Charles Schertle seeks variances from the front yard setback and side yard setback requirements for an existing structure (Sections 115-82, 115-182, and 115-183 of the Sussex County Zoning Code). The property is located on the northwest corner of Dupont Blvd. (Rt. 113) and Kerlyn Dr. 911 Address: N/A. Zoning District: C-1. Tax Parcel: 133-16.00-95.03

Mr. Whitehouse presented the case which was tabled at the Board's meeting on July 15, 2019.

The Board discussed the Application.

Mr. Chorman moved to deny Variance Application No. 12338 as the Applicant has not met the five criteria for granting a variance as the practical difficulty has been created by the Applicant and the property could have been otherwise developed.

Motion by Mr. Chorman, seconded by Dr. Carson, and carried that the **variances be denied for the reasons stated.** Motion carried 4 - 1.

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

ADDITIONAL BUSINESS

There was no additional business.

Meeting was adjourned at 10:41 p.m.