

MINUTES OF DECEMBER 16, 2019

The regular meeting of the Sussex County Board of Adjustment was held on Monday, December 16, 2019, at 6:00 p.m. in the County Council Chambers, 2 The Circle, Georgetown, Delaware.

The meeting was called to order at 6:00 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. Scott Wilcox, Esquire – Assistant County Attorney, Mr. James Sharp, Esquire – Assistant County Attorney and staff members Ms. Janelle Cornwell – Director of Planning and Zoning, Mr. Jamie Whitehouse – Planning Manager, Ms. Lauren DeVore – Planner, and Ms. Ann Lepore – Recording Secretary.

The Pledge of Allegiance was led by Ms. Magee.

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

Motion by Mr. Williamson, seconded by Dr. Carson, and carried unanimously to approve the Minutes for the October 21, 2019, meeting. Motion carried 5 – 0.

Motion by Mr. Chorman, seconded by Dr. Carson, and carried to approve the Findings of Facts for the October 21, 2019, meeting. Motion carried 5 – 0.

OLD BUSINESS

Case No. 12337 – Ariel Gonzalez seek variances from the front yard setback and side yard setback requirements for proposed and existing structures (Sections 115-25 and 115-183 of the Sussex County Zoning Code). The property is a landlocked parcel on the northside of Saw Mill Rd. approximately 0.47 miles from Pine Rd. 911 Address: 20116 Saw Mill Rd. Georgetown. Zoning District: AR-1. Tax Parcel: 135-4.00-11.01

Mr. Whitehouse presented the case which was tabled at the Board's meeting on December 2, 2019.

The Board held a brief discussion.

Mr. Chorman moved to approve Application No. 12337 for the variance as the property has unique physical conditions due to the placement of the septic system; that granting this variance will not alter the essential character of the neighborhood; and it is a minimum variance to afford relief.

Mr. Chorman moved, seconded by Mr. Workman and carried that the **variance be granted for the reasons stated**. Motion carried 3 - 2.

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

Case No. 12387 – William & Katherine Eager seek variances from front yard setback requirements for a proposed pool and proposed structures, and a variance from the fence height requirement for a proposed fence. (Sections 115-34, 115-182 and 115-185 of the Sussex County Zoning Code). The property is a through lot fronting on Porpoise Way and Camelsback Dr. in the Retreat subdivision. 911 Address: 31495 Purpoise Way, Bethany Beach. Zoning District: MR. Tax Parcel: 134-13.00-1701.00

Mr. Whitehouse presented the case which was tabled at the Board's meeting on December 2, 2019. Mr. Whitehouse stated that there is a request from the Applicant to withdraw the Application.

Tim Willard, Esquire, presented on behalf of the Applicant. Mr. Willard stated that the Applicant was unaware of the opposition against the pool by neighbors; that the Applicant does not want to begin their residency in the community with ill feelings from neighbors; that the Applicant requests to withdraw their Application; and that Fred Townsend, Esquire, sent notification that he has no objection to the withdrawal.

Dr. Carson moved to approve the withdrawal of Application No. 12387.

Dr. Carson moved, seconded by Mr. Williamson and carried that the **withdrawal of the variance request be granted for the reasons stated**. Motion carried 5 - 0.

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

PUBLIC HEARINGS

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

Mr. Whitehouse 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 operate a daycare facility for up to eighty (80) children.

Lillie McHale, Noelle Calzone, and Melissa Smith were sworn in to give testimony about the Application.

Ms. Calzone testified that the Application is for a special use exception to operate a daycare

center at 22467 John J. Williams Hwy; that the location is ideal to fill a need in the area; that the current house consists of approximately 1,700 square feet; that an addition of 3,000 square feet is planned; that the septic system has been approved; that there will be a fenced outdoor play area; that the State license to operate the facility cannot be obtained until the special use exception and all other agency approvals are granted; that the hours of operation would be 6:30 am – 6:00 pm, Monday to Friday; that the property is not in a subdivision; that the sheds will be removed; that the playground will be located in the rear yard; that there will be outside lighting; that there will be no large deliveries to the site; that there is a turn lane near the site; and that they have not had any discussions with DelDOT.

Melissa Smith testified that she is a consultant working with the Applicant; that she owns large daycare centers in Pennsylvania; that there is a definite need for this facility in Sussex County; that the waiting lists for some centers are 1.5 to 2 years; that unlicensed day cares are appearing; that growth happens quickly; that the center will not open with 80 children but that it will likely grow quickly based on word of mouth; that there would be approximately twelve teachers and three administrative staff at full capacity; and that the State requires there to be at least 35 square feet of space for every child.

Lillie McHale testified that the Applicant proposes to build a 3,000 square foot addition to the rear; that there would be twelve to fifteen parking spaces based on State requirements; that the addition would have to be completed prior to getting approval from the State to have 80 children; that all licensing will be obtained prior to opening the daycare center; that the neighbors are aware of the proposal; that the nearby properties are residential; that the front yard would be used for parking but they cannot park on the drainfield; and that the architect said septic system was okay.

Board members had concerns regarding the traffic and whether the septic system would be enough to handle a daycare of that size.

Diana Harbert was sworn in to give testimony in support of the Application.

Ms. Harbert testified that she is the real estate agent on behalf of the Applicant; that the sale is pending the special use exception approval; that there is a full walk out unfinished basement that will be finished to add additional classrooms; that the neighbor to the left is a “weekend-only” resident; that there is a development across the street; that DelDOT has plans to widen this part of Route 24 in the future; and that there is a plan to bring public water and sewer to this area.

Ms. Cornwell advised the Board that the Department of Childcare Licensing determines the number of children allowed at the facility as well as the number of employees, play area, etc.; that the Applicant will have to go to the Planning & Zoning Commission for site plan approval; that the Applicant cannot move forward to the Licensing without Board approval; that the Board could leave the record open for a concept plan and Childcare Licensing comments on their requirements; and that the Applicant will likely need a commercial entrance permit from DelDOT but that it is doubtful that

a traffic impact study will be required.

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

Mr. Workman moved to keep the record open for Case No. 12390 for the limited purpose of allowing the Applicant to submit a conceptual site plan within 60 days and, upon its receipt, the a hearing will be scheduled for the next available Board meeting; and that the record also be left open for the Applicant to appear at that meeting to answer any questions the Board may have regarding the site plan.

Motion by Mr. Workman, seconded by Mr. Williamson, 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. Chorman – yea, and Ms. Magee – yea.

Case No. 12391 – Beachfire Brewing Company, LLC seeks a variance from the front yard and corner front yard setback requirements for a proposed structure, a special use exception to place a tent for more than three days, and a variance from the number of required parking spaces. (Sections 115-80, 115-82, 115-162, 115-182 & 115-210 of the Sussex County Zoning Code). The property is located on the northeast corner of Central Ave. and Johnston St. within the Shockley subdivision. 911 Address: 19841 Central Ave., Rehoboth Beach. Zoning District: C-1. Tax Parcel: 334-13.20-24.00

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning received 474 letters in support of and one letter in opposition to the Application and four mail returns. The Applicant is requesting a variance of 0.6 ft. from the required 15 ft. corner front yard, a variance of 13.3 ft. from the 40 ft. front yard setback; a variance of 9 spaces from the required number of parking spaces of 16 spaces, and a special use exception to place a tent for more than three days.

Mr. Harry Metcalf was sworn in to give testimony about the Application. Ms. Taylor Trapp, Esquire and Ms. Mackenzie Peet, Esquire presented the case on behalf of the Applicant and submitted photographs showing the location of the additional parking.

Ms. Trapp stated that the Application is for three variances and one special use exception; that the site is used for Revelation Brewing Company; that the special use exception is for a tent that will be on site for more than 3 days; that the Applicant needs a variance from the parking space requirement; and that the Applicant proposes off-site parking.

Ms. Cornwell stated that the off-site parking issue will be an issue for the Planning & Zoning Commission; that the variance for the parking space requirement goes to the Board of Adjustment; that the site is required to have 16 spaces with the tent in place but only has space for 7 spaces; and

that the tent necessitates 9 parking spaces under the Code.

Ms. Trapp stated that Revelation Brewing is a local business whose primary clientele bikes or walks to the site; that the lot is non-conforming and is unique as it is both narrow and shallow; that the lot measures 50 feet by 100 feet; that the Property also has a corner front on Johnston Road; that the existing pole barn covers most of the lot; that the tent measures 15 feet by 30 feet; that the Property cannot otherwise be developed without a variance; that the lot was created by a prior owner; that the client will not alter the essential character of the neighborhood but enhance it as the Applicant has made many improvements to the area; that the Property and neighboring properties are zoned C-1 Commercial; that the micro-brewery has been in existence since 2015; that the Applicant will be moving to a larger space when all agency approvals have been received; that, due to the uniqueness of the property, the lot cannot be developed to conform with County Code; that the exceptional practical difficulty was not created by the Applicant as he is leasing the property and did not create the size and shape of the lot; that permission from the other lot owners was sent to the Planning and Zoning Department after the Application was submitted; that the variances are the minimum to afford relief; that the variances will only be needed for a limited time; that off-site parking is available on 2 lots which are within walking distance of the site; that one lot is located across the street and the other lot is located on the same side of the road; that the reduction in parking on this lot will be addressed by allowing patrons to park on other lots close by; and that there are 43 parking spaces on nearby lots.

Ms. Peet stated that Lots 47, 17, and 18 are used for parking; and that most patrons come by bike.

Ms. Cornwell noted that marked parking is only required if there are more than 10 spaces.

Ms. Trapp stated that the special use exception request is for a temporary period of time; that the tent will not substantially affect adversely the uses of adjacent and neighboring properties as the area is zoned commercial and is mostly surrounded by commercial uses; that the tent will provide patrons cover in the rain; and that the tent will have sides.

Mr. Metcalf testified that the tent will have siding and 2 doors; that he has applied to the Fire Marshal for approval; that there will be a couple of televisions and live music under the tent at times; that the business' clientele is not a late-night crowd; and that the tent would be heated.

Ms. Cornwell recited the letter in opposition from Donald Hall, who owns Lot 29.

Ms. Trapp stated that Mr. Hall rents out Lot 29; that live music will be over by 8 pm; that the facility opens at 11 am unless there is a charity event; and that the business closes between 8-9 pm in the off-season and 10-11 pm during the summer season.

Mr. Metcalf testified that there are 13 seats and 2 tables inside the facility and the tent will add 30-40 seats; that the extra seats are important during the off-season; that the pole building is also

used for brewing; that the pole building has approximately 250 square feet for patrons and the rest is used for the brewery operation; that the Applicant hopes to relocate his business to the new location in 2020; that the tent will project no lights; that the Applicant paved part of Johnston Street; that the area is a mixed use area but Johnston Street is commercial; that facility never opens before 9 am but sometimes open at 9 am; that there have been no parking complaints; that he disputes the allegations raised in Mr. Hall's letter; that the hours of operation are generally noon to 9:00 pm with extended hours on the weekend off-season; that summer hours are 11 am – 11 pm; that there are three occasions during the year when they participate in charity events and open at 9 am; that there is no smoking permitted on the property; that his lease ends in May 2020 but he is working with the landlord to extend if necessary; that the tent is required to add additional seating for his patrons; that parking is not an issue as many of the customers cycle or walk to the location; that there are bicycle racks on the lot across the street for patrons; and that there is live music but usually just one or two people singing and playing a guitar.

Mr. Metcalf affirmed the statements made by Ms. Trapp as true and correct.

The following people were sworn in to testify in support of the Application: Mr. Brian Grawehr, Mr. Benett Allen, Mr. Jake Shepherd, Mr. Ray Grabiak, and Mr. Rich Rohde.

Mr. Grawehr testified that he works as a part-time manager at the micro-brewery; that it is a very community-oriented company; that the company has raised funds for many local charities and that he is in support of the Application.

Mr. Shepherd testified that he has worked as a brewer for three years at this location; that the company has done an incredible amount of work for West Rehoboth; that the company has brought other businesses to the area; that the Applicant needs additional seating to grow its business; that the Applicant also offers food; that many people who use the trail system are patrons of the brewery; that he wants the business to succeed and supports the Application for variances and a special use exception.

Mr. Allen testified that he moved from Texas to work as a brewer at Revelation (Beachfire Brewing Company); that Revelation installed lighting which helps security for the neighborhood; that the gravel road was paved which has encouraged more foot and bike traffic through the neighborhood; and that Revelation has done a lot to improve the area.

Mr. Grabiak testified that he is a customer who bikes to the location and that he supports the Application.

Mr. Rohde testified that he is a customer who bikes and walks to the brewery; that the brewery is an asset to the community; that Revelation is a vital part of the local community; that it is frequented by bikers, runners, and some tourists; that he has not seen parking issues; and that he supports the Application.

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

Mr. Metcalf testified that the new location will be located on the same block next to Ocean Boulevard.

Ms. Cornwell advised the Board that the tent is smaller with a special events permit; that there have been no complaints about the new tent; that the Applicant previously received complaints for a larger tent on site which was placed without a special use exception; that the Applicant worked with the County to remove the tent; and that the Applicant applied for a special event permit and worked with the County to allow this smaller tent to remain on the site pending the outcome of this application.

Mr. Metcalf testified that they are still in the permitting stage for the new tent and the Applicant seeks approval until at least December 31, 2020.

Dr. Carson moved to approve Case No. 12391 for the special use exception for the tent until December 31, 2021, with the condition that music played in the tent must end by 8 pm.

Motion by Dr. Carson, seconded by Mr. Chorman, carried unanimously that the **special use exception be granted with conditions for the reasons stated**. Motion carried 4 – 1.

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

Dr. Carson moved to approve Case No. 12391 for the variances as the property is unique, the essential character of the neighborhood is commercial, and they are the minimum variances to afford relief.

Motion by Dr. Carson, seconded by Mr. Chorman, 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, Ms. Magee – yea, and Mr. Chorman - yea.

Case No. 12392 – John M. Cosgrove seeks a variance from the rear yard setback requirements for proposed structures (Sections 115-172 and 115-183 of the Sussex County Zoning Code). The property is located on the east side of Dodd Ave. approximately 127 ft. south of Ocean View Ave. in the Sea Air Manufactured Home Park. Address: 19974 Dodd Ave. Rehoboth Beach. Zoning District: AR-1 & C-1. Tax Parcel: 334-13.00-310.00-54148

Mr. Whitehouse 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 eleven mail returns. The Applicant is requesting a 2.6 ft. variance from the required 5 ft. rear yard setback for a proposed screened porch.

Mr. John Cosgrove was sworn in to give testimony about the Application.

Mr. Cosgrove testified that he wishes to build a screened porch addition to his house; that the addition will measure 30 feet by 9 feet; that the house is 60 feet wide; that the property is unique due to the angle of the rear property line; that most of the porch will be in compliance; that the variance is just requested where the rear yard narrows; that the property cannot be developed with a screened porch without this variance; that the shape and uniqueness of the lot was not created by the Applicant; that the property is located in Sea Air Village; that the variance would not alter the character of the neighborhood; that the neighbors on Dodd Avenue have no complaints and have signed a petition in support of the Application; that part of the property backs up to a parking lot and a single family home which is over 100 ft. from the subject property; that there is a fence in the rear yard; that there are similar porch additions in the neighborhood; that the requested variance is the minimum to allow for a narrow screened porch to be added to the home; that there is a bug problem in the area and the screened porch is needed to have usable outdoor space; and that the variance requested is 3 feet – not 2.6 feet.

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

Mr. Williamson moved to approve Case No. 12392 for the variance as the Applicant has met the criteria for granting a variance; that the property is an oddly shaped lot; and that the variance requested is the minimum variance to afford relief.

Motion by Mr. Williamson, seconded by Mr. Workman, 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, Ms. Magee – yea, and Mr. Chorman - yea.

Case No. 12394 – William J. Smith, Jr. seeks variances from the side yard setback requirements for existing structures (Sections 115-42, 115-181 and 115-183 of the Sussex County Zoning Code). The property is located on the west side of the north end of Pintail Dr. within the Swann Keys subdivision. 911 Address: 37057 Pintail Dr., Selbyville. Zoning District: GR. Tax Parcel: 533-12.16-32.00

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 zero mail returns. The Applicant is requesting a 2 ft. variance from the required 5 ft. side yard setback on the south side for existing steps and HVAC equipment on an elevated platform.

William Smith was sworn in to give testimony about the Application.

Mr. Smith testified that the property is located in Swann Keys; that he seeks a variance for an existing HVAC system, steps, and landing; that the property is unique as it is pie-shaped and adjoins water on two sides; that the front of the property has a cutout for the turnaround; that, due to the limited building space and the placement of the home, a side yard variance is necessary to place the steps, landing, and HVAC equipment; that the cul-de-sac creates challenges; that the house is located far from the road as compared to other homes in the neighborhood; that it will not affect the character of the neighborhood as many homes have similar setback issues; that the house is 7 feet from the side yard property line; that there is a crawlspace under the home; that the home is 2 stories tall and is under construction but the builder realized the need for the variance; that the foundation has been poured; that lot floods at times due to large storms; that the steps cannot be moved because there is a door on that side of the house; that placing the HVAC equipment on this side of the home will help protect it from the elements; that he is concerned about spray from the water deteriorating the HVAC system; that the odd shape of the lot and the community turnaround were not created by the Applicant; that there are no complaints from neighbors; that he spoke with the neighbor on Lot 37 and he is okay with the variance requests; and that the variances are the minimum variances necessary to afford relief.

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

Dr. Carson moved to approve Case No. 12394 for the variances as the property has unique physical conditions and it is the minimum variance to afford relief. Dr. Carson noted as part of his motion that a letter be sent to the builder regarding adhering to setbacks.

Motion by Dr. Carson, seconded by Mr. Workman, 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, Ms. Magee – yea, and Mr. Chorman - yea.

Case No. 12395 – Milton & Kathleen Roberson seek a variance from the fence height requirement for a proposed fence. (Sections 115-34, 115-184 and 115-185 of the Sussex County Zoning Code). The property is located on the northwest corner of Double Bridges Rd. and Neptune Dr. 911 Address: 1 Neptune Dr., Frankford. Zoning District: MR. Tax Parcel: 134-17.00-545.00

Mr. Whitehouse presented the case and stated that the Office of Planning and Zoning received one letter in support of and none in opposition to the Application and two mail returns. The Applicant is requesting a 2.5 ft. variance from the 3.5 ft. fence height requirement for a proposed fence in the front yard setback

Kathleen Roberson and Milton Roberson were sworn in to give testimony about the

Application.

Ms. Roberson testified the request is for a six-foot high fence in the front setbacks along Double Bridges Road; that the property is unique as it was not originally planned by Stephens Management Company to be used as a dwelling site; that the property was originally designated as a utility lot; that, as such, the dimensions are differ from the other properties in the neighborhood; that other lots are set back farther from Double Bridges Road but, in this case, there is only 28 feet between the road and the dwelling; that Leland Cypress trees were on the property along Double Bridges Road but DelDOT clipped the trees and caused irreparable damage; that the trees provided a safety, privacy, and noise buffer from Double Bridges Road; that the speed limit on Double Bridges Road is 45 miles per hour but cars travel much faster; that the fence cannot be erected without a variance; that the need for the variance was not created by the Applicants but the existing trees have created a visibility issue for traffic on Double Bridges Road; that the fence will not be on the property line, therefore making visibility better for motorists and also providing safety for the Applicants' grandchildren; that the variance will not alter the essential character of the neighborhood and will contribute to public welfare; that the variance requested is the minimum variance to afford relief; that the homeowners association supports the fence over the trees; and that new developments have been constructed along Double Bridges Road and that has led to an increase in traffic and noise.

Mr. Roberson testified that the fence will be closer to the house than the trees and will be no closer to Neptune Drive than the existing house.

Mr. Williamson stated that he is familiar with the area and the traffic concerns.

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

Mr. Williamson moved to approve Case No. 12395 for the variance as the Applicants have met all the criteria for granting a variance.

Motion by Mr. Williamson, 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, Ms. Magee – yea, and Mr. Chorman - yea.

Case No. 12396 – Sam Trusik seeks a variance from the fence height requirement for a proposed fence. (Sections 115-25, 115-184 and 115-185 of the Sussex County Zoning Code). The property is located on the north side of Angola Rd. approximately 0.30 miles west of Camp Arrowhead Rd. 911 Address: 33005 Angola Rd., Lewes. Zoning District: AR-1. Tax Parcel: 234-12.00-13.06

Mr. Whitehouse 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 nineteen mail returns. The

Applicant is requesting a 3 ft. variance from the 7 ft. maximum fence height requirement for an existing fence in the rear yard setback.

Mr. Samuel Trusik was sworn in to give testimony about the Application and submitted photographs of the existing fence.

Mr. Trusik testified that he was unaware that a permit was required when installing a fence; that the property is adjacent to a development to the rear; that the property is unique as it rolls down to a natural swale; that the elevation of the properties behind him are much higher than his property; that he believed there was a landscape buffer to the rear yard which has been removed; that he no longer has privacy to the rear yard; that there is approximately a 3 foot drop from the neighboring properties to his lot; that he hired a local builder to construct the fence but work stopped when they received a notice of violation from Planning & Zoning; that he planned to have a lower fence near pine trees; that there is approximately a 10 foot wide swale to the rear yard; that pine trees were removed but hardwood trees were left in the buffer area; that it would be a financial burden to remove the fence; that the property cannot otherwise be developed for the 10 ft. fence without the variance; that the height is necessary as the property slopes down in the corner where the fence is placed; that the lot was not created by the Applicant; that the fence will not affect the adjacent properties as there is existing foliage which will block the fence from view; that some neighbors came to support his Application but had to leave before his case was heard; that it is a minimum variance request to allow the existing fence to remain; that the fence will be 10 feet tall then drop to 7 feet; that he needs 70 linear feet of fence measuring 10 feet tall; that 64 linear feet have been built and he needs a few extra feet to cover the slope; and that he is upset with his builder.

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

Dr. Carson moved to deny Case No. 12396 for the variance as the exceptional practical difficulty has been created by the Applicant and that a letter be sent to the contractor informing them of the correct procedures when installing a fence. The motion failed for lack of a second.

Mr. Chorman moved to approve Case No. 12396 for 70 linear feet of 10 ft. high fencing as the property is unique due to the swale; that it would be a financial hardship to remove the fence; that the variance will not alter the essential character of the neighborhood and that a letter be sent to the contractor informing them of the correct procedures when installing a fence.

Motion by Mr. Chorman, seconded by Mr. Workman, carried unanimously 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 – nay, Ms. Magee – nay, and Mr. Chorman - yea.

ADDITIONAL BUSINESS

There was no additional business discussed.

Meeting was adjourned at 8:58 p.m.