

MINUTES OF JANUARY 22, 2018

The regular meeting of the Sussex County Board of Adjustment was held on Monday, January 22, 2018, at 7:00 p.m. in the County Council Chambers, 2 The Circle, Georgetown, Delaware.

The meeting was called to order at 7:00 p.m. with Chairman Dale Callaway presiding. The Board members present were: Mr. Dale Callaway, Ms. Ellen Magee, Mr. John Mills, and Mr. Bruce Mears. Mr. Brent Workman was absent. Also in attendance were Mr. James Sharp, Esquire – Assistant County Attorney, and staff members Mrs. Jennifer Walls – Planning Manager and Mr. Jamie Whitehouse – Planning Technician.

The Pledge of Allegiance was led by Mr. Callaway.

Motion by Ms. Magee, seconded by Mr. Mears to approve the Revised Agenda as circulated and amended. Motion carried 5 – 0.

Mr. Sharp advised the Board that a case tabled at the last meeting was not advertised for this meeting so it has been placed on the agenda for the meeting on February 5, 2018.

Motion by Mr. Mears, seconded by Ms. Magee to Approve the Minutes and Finding of Facts for November 20, 2017. Motion carried 5-0.

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. 12084 – Brandon Brittingham - seeks a variance from the front yard setback requirement (Section 115-25 of the Sussex County Zoning Code). The property is located on the east side of Brittingham Road, approximately 1,000 feet north of the intersection of Reynold Drive and Brittingham Road. 911 Address: 28059 Brittingham Road, Delmar. Zoning District: AR-1. Tax Map No.: 5-32-22.00-37.03.

Mrs. Walls presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application. The Applicant seeks a variance of 7.4 feet from the forty (40) feet front yard setback requirement for an existing garage. Mrs. Walls advised the Board that a building permit was acquired but no certificate of compliance was issued.

Brock Parker was sworn in to testify about the Application and submitted exhibits into the record for the Board to review.

Mr. Parker testified that he represents the Applicant; that the variance request is for an existing garage; that the garage was constructed prior to 2005 as an aerial photograph from 2005 clearly shows the garage on the Property; that the garage was constructed too close to the front

property line; that the Applicant purchased the Property at a foreclosure sale in the summer of 2017; that the Applicant learned of the encroachment after a survey of the Property was prepared; that the garage was placed on the Property by a prior owner; that the removal of the encroaching portion of the garage would require the garage to be reconstructed due to its age; that the Property is triangularly shaped; that the Property cannot otherwise be developed; that the Applicant did not create the need for the variance; that the variance will not alter the essential character of the neighborhood; that a structure on a lot across the street is significantly closer to the road than the subject garage; that the variance requested is the minimum variance necessary to afford relief; that the Applicant has no plans to enlarge the garage; that there is approximately 20 feet from the edge of paving of the adjacent road to the front property line; that the Property is served by well and septic; that the well and septic are located in the building envelope; and that there have been no complaints from neighbors about the garage.

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

Mr. Mears moved to approve Variance Application No. 12084 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The Property is unique due to the triangular shape;
2. The variance is necessary to enable reasonable use of the Property;
3. The exceptional practical difficulty was not created by the Applicant;
4. The garage was placed on the Property by a prior owner;
5. The variance will not alter the essential character of the neighborhood;
6. The variance will not permanently impair the uses of neighboring properties;
7. The variance will not be detrimental to the public welfare; and
8. The variance requested is the minimum variance necessary to afford relief.

Motion by Mr. Mears, seconded by Ms. Magee, and carried unanimously that the **variance be granted for the reasons stated**. Motion carried 4 – 0.

The vote by roll call; Mr. Mills – yea, Ms. Magee – yea, Mr. Mears – yea, and Mr. Callaway – yea.

Case No. 12085 – DTN Properties LLC - seeks a special use exception to use a manufactured home type structure as an office (Sections 115-23, 115-80, and 115-210 of the Sussex County Zoning Code). The property is located on the northwest corner of the intersection of DuPont Boulevard (Route 113) and Parker Road (Road 380). 911 Address: 35502 Parker Road, Frankford. Zoning District: C-1 / AR-1. Tax Map No.: 5-33-4.00-6.00.

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

Lynn Hickman and Michael Moutzalias were sworn in and testified requesting a special use exception to use a manufactured home type structure as an office and submitted exhibits for the Board to review.

Ms. Hickman testified that Mr. Moutzalias is her son and he purchased the Property in October 2017; that the Property consists of 5.87 acres; that the Property had been abandoned for many years; that her son has cleared out the Property; that her son owns a business known as East Coast Campers and More; and that her son needs an office trailer for the business.

Mr. Moutzalias testified that, when he acquired the Property, there were many structures on the Property including old and abandoned structures; and that he took out 20 construction dumpsters of trash and debris related to the site.

Ms. Hickman testified that the office trailer is not skirted but the Applicant intends to skirt the unit if the special use exception is granted.

Ms. Magee stated that she is familiar with the Property and that the Property looks much improved.

Mr. Moutzalias testified that he cannot afford to construct a permanent office on the site; that he sells RVs; that travel trailers and RVs are currently parked near the road because he is arranging for a controlled burn on the rear of the Property; that he will be moving the travel trailer and RVs after the burn; that he requests approval to keep the trailer for a period of five (5) years; that the trailer is a construction trailer that was previously used by a different RV dealer; that the trailer is vinyl-sided and is a solid structure; that he plans to add a temporary porch to the trailer to give it the appearance of a cabin on a campground; that he intends to make the trailer look appealing; that the trailer will not substantially affect adversely the uses of neighboring and adjacent properties; that there are private homes, poultry houses, and farmland nearby; and that he has not received any complaints about the trailer.

Ms. Hickman testified that she received a compliment from a neighbor.

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

Ms. Magee moved to approve Special Use Exception Application No. 12085 for the requested special use exception for a period of five (5) years based on the record made at the public hearing and because the use will not substantially adversely affect the uses of the neighboring and adjacent properties.

Motion by Ms. Magee, seconded by Mr. Mears, and carried unanimously that **the special use exception be granted for a period of five (5) years and for the reasons stated.** Motion carried 4 – 0.

The vote by roll call; Mr. Mills – yea, Ms. Magee – yea, Mr. Mears – yea, and Mr. Callaway – yea.

Case No. 12086 – EM Smith Farms Limited - seeks a special use exception to place a telecommunication tower (Sections 115-23, 115-194.2, and 115-210 of the Sussex County Zoning Code). The property is located on the southwest corner of the intersection of Hardscrabble Road and Cross Keys Road. 911 Address: 28086 Cross Keys Road, Millsboro. Zoning District: AR-1. Tax Map No.: 1-33-15.00-10.00.

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

Brian Grevis, and Kevin O’Keefe were sworn in to testify about the Application. John Tracey, Esquire, presented the case on behalf of the Applicant.

Mr. Tracey stated that Verizon Wireless will be the tenant on the proposed tower; that the Property consists of approximately 46 acres and is primarily used for agricultural purposes; that the Property also has a produce market where produce is sold; that the tower will be located near the market; that the surrounding area is primarily agricultural; that there are no structures within two (2) miles where the telecommunications equipment could be collocated; that the proposed tower will fall 130 times below the maximum radio frequency (RF) requirement set forth by the federal government; that there is a significant gap in coverage in the area; that the tower will meet all Sussex County zoning requirements; that the tower will meet the setback requirements and will be lit per Sussex County Code; that the tower will not substantially affect adversely the uses of neighboring and adjacent properties; that the location is remote; that the tower emits no sounds or smells; that traffic associated with the tower will result in approximately one (1) maintenance trip per month after the tower is constructed; that the tower will be designed to accommodate three (3) other carriers; that the tower’s guy wires will be surrounded by a fence; and that the tower should improve cell phone reception for nearby properties.

Mr. Sharp reminded the Board that additional requirements need to be met by the Applicant for the Board to approve a special use exception request to place a cell tower.

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

Mr. Mills moved to approve Special Use Exception Application No. 12086 for the requested special use exception based on the record made at the public hearing and because the use will not substantially adversely affect the uses of the neighboring and adjacent properties and the proposed tower meets the requirements set forth in Sussex County Code §115-194.2.

Motion by Mr. Mills, seconded by Mr. Mears, and carried unanimously that **the special use exception be granted for the reasons stated**. Motion carried 4 – 0.

The vote by roll call; Mr. Mills – yea, Ms. Magee – yea, Mr. Mears – yea, and Mr. Callaway – yea.

Case No. 12087 – Mark F. Rosenberg and Sandra Bacome-Rosenberg - seek variances from the front yard, side yard, and rear yard setback requirements (Sections 115-25, 115-182, 115-183, and 115-185 of the Sussex County Zoning Code). The property is located on the east side of Grant Drive, approximately 315 feet south of the intersection of Grant Drive and Lincoln Drive. 911 Address: 38737 Grant Avenue, Selbyville. Zoning District: AR-1. Tax Map No.: 5-33-20.14-28.00.

Mrs. Walls presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application. The Applicants seek a variance of 8.4 feet from the twenty (20) feet rear yard setback requirement for existing steps, a variance of 8.2 feet from the twenty (20) feet rear yard setback requirement for existing steps, a variance of 9.6 feet from the ten (10) feet side yard setback requirement on the west side for existing steps, a variance of 9.7 feet from the ten (10) feet side yard setback requirement on the west side for existing steps, a variance of 9.9 feet from the ten (10) feet side yard setback requirement on the west side for existing steps, a variance of 9.6 feet from the ten (10) feet side yard setback requirement on the west side for existing steps, a variance of 4.4 feet from the five (5) feet front yard setback requirement for an existing shed, and a variance of 4.5 feet from the five (5) feet front yard setback requirement for an existing shed. Mrs. Walls advised the Board that prior variances were granted; that, in 1998, a variance of 5.0 from the ten (10) feet side yard setback requirement and a variance of 5.0 from the ten (10) feet rear yard setback requirement were approved; and that, in 1999, a variance of 8.0 feet from the ten (10) feet side yard setback requirement was approved.

Mark Rosenberg was sworn in to testify about the Application. Ray Tomasetti, Esquire, presented the case on behalf of the Applicants and submitted exhibits for the Board to review.

Mr. Tomasetti stated that variances were approved in 1998 and 1999 for the Property because the existing dwelling violated the setback requirements; that the survey submitted for the previous variance applications failed to show the location of the steps to the home; that no permit had been issued for the shed; that the shed was on the Property when the prior owner acquired the Property; that the shed was not shown on the 1998 survey; that the steps and the shed have been on the Property for at least eight (8) years since they were on the Property when the prior owners (the Kellys) acquired the lot; that other lots along Grant Avenue have sheds which are similarly situated; that the variances are requested to allow the stairs and shed to remain in their present location; that the Property is unique because it is only 50 feet wide by 88.75 feet deep; that the dwelling was placed on the Property by a prior owner; that the Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code; that the steps are necessary for the Applicants to access the home; that the exceptional practical difficulty was not created by the Applicants; that the variances will not alter the essential character of the neighborhood; and that the variances are minimum variances necessary to afford relief.

Mr. Rosenberg affirmed the statements made by Mr. Tomasetti as true and correct.

Mr. Tomasetti stated that the previous owners were unaware of the encroachments because they did not obtain a survey when they purchased the Property; that the Applicants became aware of the encroachments when they obtained a survey as part of the settlement process; and that the shed cannot be relocated elsewhere on the Property.

Mr. Rosenberg testified that there are similar sheds in similar locations in the neighborhood; that there is parking space to fit three cars; and that he has received no complaints from neighbors.

Mr. Tomasetti stated that Grant Avenue does not extend to the front property line.

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

Mr. Mears moved to approve Variance Application No. 12087 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The Property is unique in size;
2. The Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code;
3. The exceptional practical difficulty was not created by the Applicants;
4. The variances will not alter the essential character of the neighborhood;
5. The structures have been on the Property for many years; and
6. The variances requested are the minimum variances necessary to afford relief.

Motion by Mr. Mears, seconded by Ms. Magee, and carried unanimously that the **variances be granted for the reasons stated**. Motion carried 4 – 0.

The vote by roll call; Mr. Mills – yea, Ms. Magee – yea, Mr. Mears – yea, and Mr. Callaway – yea.

Case No. 12088 – David Costello - seeks variances from the side yard setback requirement (Section 115-25 of the Sussex County Zoning Code). The property is located on the west side of the south end of Cleveland Avenue perpendicular to Cleveland Avenue. 911 Address: 38856 Cleveland Avenue, Selbyville. Zoning District: AR-1. Tax Map No.: 5-33-20.18-117.00.

Mrs. Walls presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application. The Applicant seeks a variance of 5.0 feet from the ten (10) feet side yard setback requirement on the east side for a proposed dwelling and a variance of 4.0 feet from the ten (10) feet side yard setback requirement on the east side for a proposed dwelling.

David Costello was sworn in to testify about the Application. Ray Tomasetti, Esquire,

presented the case on behalf of the Applicants and submitted exhibits for the Board to review.

Mr. Tomasetti stated that the Property is located in Cape Windsor; that the previous owners (the Sands family) obtained variances in 2014 for a proposed dwelling; that an existing manufactured home was located on the Property at that time and that home is still located on the Property; that the manufactured home encroaches into the setback areas; that the Board previously approved a variance for the proposed dwelling in 2014 but the home was not built before the variance approval lapsed; that the Property was sold to the Applicant in 2016; that the Applicant proposes to remove the manufactured home and to construct a dwelling in the same location as the proposed dwelling previously approved by the Board; that, in 2014, there was an issue regarding title to the Property and the issue of the lot line; that the lot line issue has been resolved; that there is approximately ten (10) feet between the existing manufactured home and the dwelling to the east; that the Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code; that the exceptional practical difficulty was not created by the Applicant; that the existing dwelling was placed on the Property by a prior owner; that the variances will not alter the essential character of the neighborhood; that neighboring homes are similarly situated from property lines; that the homeowners association has approved the proposed dwelling provided the Board approves the variance requests; and that the requested variances are the minimum variances necessary to afford relief.

Mr. Costello affirmed that the statements made by Mr. Tomasetti as true and correct.

Mr. Tomasetti stated that the Applicant proposes to replace the existing manufactured home with a new home; that the dwelling will be on the same footprint as the dwelling proposed to the Board in 2014; and that the existing home is approximately two (2) feet from Lot 23 and the new home will encroach less into the side yard setback area closer to Lot 23 than the existing home.

Mr. Costello testified that the existing manufactured home is approximately 3.5 feet from the side property line shared with Lot 23 and the new home will be 5 feet from that shared property line; and that the dwelling will have a concrete foundation.

Mr. Tomasetti stated that the proposed dwelling will measure approximately 25 feet wide and will be stick-built; that an HVAC system will be placed on the west side of the Property; and that there are no steps on the sides of the dwelling.

Mr. Sharp stated the Application needs to be amended to include a variance of 4.0 feet from the ten (10) feet side yard setback requirement on the west side for a proposed HVAC unit.

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

Ms. Magee moved to approve Variance Application No. 12088 for the requested variances, including the side yard variance for the HVAC system, based on the record made at the public hearing and for the following reasons:

1. The Property is unique due to the size;
2. The Property cannot be developed in strict conformity with the Sussex County Zoning Code;
3. The exceptional practical difficulty has not been created by the Applicant;
4. The variances will not alter the essential character of the neighborhood; and
5. The requested variances are the minimum variances necessary to afford relief.

Motion by Ms. Magee, seconded by Mr. Mears, and carried unanimously that the **variances be granted for the reasons stated**. Motion carried 4 – 0.

The vote by roll call; Mr. Mills – yea, Ms. Magee – yea, Mr. Mears – yea, and Mr. Callaway – yea.

Case No. 12089 – Willis Harmon - seeks a special use exception to place a manufactured home type structure for a medical hardship (Sections 115-23 and 115-210 of the Sussex County Zoning Code). The property is located on the south side of Stockley Road, approximately 4,559 feet east of the intersection of Stockley Road and Cool Spring Road. 911 Address: 30074 Stockley Road, Milton. Zoning District: AR-1. Tax Map No.: 2-34-5.00-55.03.

Mrs. Walls presented the case and stated that the Office of Planning and Zoning received one (1) letter in support of the Application and no correspondence in opposition to the Application. The letter of support was a physician's letter and read into the record.

Willis Harmon was sworn in and testified requesting a special use exception to use a manufactured home type structure for a medical hardship.

Mr. Harmon testified that there are two manufactured homes on the Property; that he lives in one manufactured home and that Michael McClimans lives in the other home; that he inherited the manufactured home from his grandmother; that Mr. McClimans has lived on the Property for many years; and that Mr. McClimans is like an uncle to him.

Mrs. Walls stated that the Applicant's grandmother was previously granted a special use exception for the manufactured home as a medical hardship in Case No. 8991; and that the Applicant's grandmother passed away and the special use exception thereby became null and void.

Mr. Harmon testified that he promised his grandmother that he would look out for Mr. McClimans; that he has received no complaints about the manufactured home; that neighboring properties were developed after the home was placed on the Property; that the use will not substantially affect adversely adjacent and neighboring properties; that the Property consists of 3.54 acres; and that the travel trailers on the Property were removed.

Tammy Hall, Michael McClimans, Valerie McCray, Kaitlynn Gibbs, and Maurice Tunnell were sworn in and testified in support of the Application.

Ms. Hall testified that she is the Applicant's mother; that Mr. McClimans is known as "Uncle Mike"; that she wants to make sure that Mr. McClimans has a place to live; and that the manufactured home has been on the Property a long time.

Mr. McClimans testified he suffers from rheumatoid arthritis and heart problems; that he has had open heart surgery; and that he is the one seeking the medical hardship.

Ms. McCray testified that she is Mr. McClimans' caretaker and that Mr. McClimans keeps the unit clean.

Ms. Gibbs testified that she supports the Application.

Mr. Tunnell testified that he supports the Application.

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

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

Mr. Mills moved to approve Special Use Exception Application No. 12089 for the requested special use exception for a period of two (2) years based on the record made at the public hearing and because the use will not substantially adversely affect the uses of the neighboring and adjacent properties.

Motion by Mr. Mills, seconded by Ms. Magee, and carried unanimously that **the special use exception be granted for a period of two (2) years and for the reasons stated**. Motion carried 4 – 0.

The vote by roll call; Mr. Mears – yea, Ms. Magee – yea, Mr. Mills – yea, and Mr. Callaway – yea.

Case No. 12090 – Thomas Kucharik & Laura Kucharik - seek a special use exception for a garage / studio apartment (Sections 115-23 and 115-210 of the Sussex County Zoning Code). The property is located on the west side of Beaver Dam Road, approximately 14,294 feet north of the intersection of Stockley Road and Beaver Dam Road. 911 Address: 19884 Beaver Dam Road, Lewes. Zoning District: AR-1. Tax Map No.: 2-34-5.00-44.07.

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

Tom Kucharik was sworn in and testified requesting a special use exception for a garage studio apartment and submitted exhibits for the Board to review.

Mr. Kucharik testified that he operates a greenhouse business on the Property; that he is building a pole barn for storage; that he would like to convert a portion of the pole barn for use as an apartment for an employee to watch the greenhouse; that the apartment will consist of 768 square feet in size; that he spoke with one neighbor about the Application and he expressed no objections; that the apartment will have a designated parking space; that he plans to plant evergreens to screen the pole barn; that there are residential properties nearby; that the use will not significantly affect adversely adjacent and neighboring properties; and that the use is consistent with the agricultural residential character of the neighborhood.

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

Ms. Magee moved to approve Special Use Exception Application No. 12090 for the requested special use exception based on the record made at the public hearing.

Motion by Ms. Magee, seconded by Mr. Mears, and carried unanimously that **the special use exception be granted for the reasons stated**. Motion carried 4 – 0.

The vote by roll call; Mr. Mears – yea, Ms. Magee – yea, Mr. Mills – yea, and Mr. Callaway – yea.

Case No. 12091 – Jeff Gehrs & Ellen Gehrs - seek variances from the front yard, corner front yard, and rear yard setback requirements (Sections 115-34 and 115-182 of the Sussex County Zoning Code). The property is located on the southwest corner of the intersection of Davis Street and Assawoman Street. 911 Address: 39907 Assawoman Street, Bethany Beach. Zoning District: MR. Tax Map No.: 1-34-20.12-20.00.

Mr. Mears recused himself from this case and left the chambers.

Mrs. Walls presented the case and stated that the Office of Planning and Zoning received no correspondence in support of the Application and three (3) letters in opposition to the Application, and read the letters into the record. The Applicants seek a variance of 5.0 feet from the fifteen (15) feet corner front setback requirement along Davis Street for a proposed dwelling, a variance of 4.9 feet from the fifteen (15) feet corner front setback requirement along Davis Street for a proposed deck, and a variance of 5.0 feet from the ten (10) feet rear yard requirement for a proposed deck.

John Hendrickson sent in a letter of opposition stating that the hardship is being created by the Applicants; that the lots in the community do not meet the minimum lot size requirement; that the roads in the community are small as well; that Property is a double lot which is larger than other properties; and that he is the vice president of the homeowner's association.

Helen Ward sent in two (2) letters of opposition to the Application stating that she lives nearby; there is flooding in the area and Davis Street serves to provide drainage after storms; that Davis Street is narrow; that it is hard to navigate through Davis Street; that the variances will block

site lines; that the property values of adjacent properties will be affected; that there is no hardship; and that the Property can be reasonably used without a variance.

Jeff Gehrs was sworn in to testify about the Application. James Fuqua, Esquire, presented the case on behalf of the Applicants and submitted exhibits for the Board to review.

Mr. Fuqua stated that the Applicants must prove that an exceptional practical difficulty exists and they are not required to prove that an unnecessary hardship exists; that the Property consists of Lots 17 & 18 in the Bayview Park development; that the Property fronts on Assawoman Street and Davis Street is adjacent to the side of the Property; that there is an existing home on the Property which the Applicants intend to remove and replace with the proposed dwelling; that the Property has several unique features; that the east side of the Property measures 141 feet deep along Davis Street; that the west side of the Property measures 100 feet deep; that the rear of the Property is adjacent to Assawoman Bay; that the Property is considered a corner lot with two (2) road frontages; that the normal side yard setback requirement is ten (10) feet but a corner lot has a setback of fifteen (15) feet; that Davis Street is not a through street and only runs from Assawoman Street to Assawoman Bay; that the corner yard setback requirement designed to provide for improved visibility at intersections; that Davis Street is effectively a driveway; that the encroachments will have no impact on the visibility along Davis Street; that the deck is adjacent to the bay so it does not affect other properties; that a neighboring lot also received a rear yard variance from the setback requirement; that the deck only goes to the first floor with no side yard or rear yard setback variance needed for the deck; that the Property is unique in shape; that the lot runs the entire length of Davis Street; that the variance is necessary to enable reasonable use of the Property; that the proposed dwelling will have a positive effect on property values; that most other lots have setbacks of ten (10) feet; that the situation was not created by the Applicants; that the lot size and shape were not created by the Applicants; that the variance for the dwelling will not alter the essential character of the neighborhood; and that the minimum setback needed is 5 feet from the corner front yard setback for the dwelling and porch.

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

Mr. Gehrs testified that steps to the home and the HVAC system will be located within the proposed building envelope and will not project farther into the setback areas; that the dwelling will be 3-4 stories tall; that the proposed deck will be a first-floor deck; and that there is a gap of approximately two (2) feet between the property line and the edge of paving of Davis Street.

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

Mr. Mills moved to approve Variance Application No. 12091 for the requested variance from the corner front yard setback requirement for the proposed dwelling and porch based on the record made at the public hearing and for the following reasons:

1. The Property is unique in shape;
2. There is no possibility the Property can be developed in strict conformity with the Sussex

County Zoning Code;

3. The exceptional practical difficulty has not been created by the Applicants as the lot was not created by the Applicants;
4. The variance will not alter the essential character of the neighborhood;
5. The requested variance is the minimum variance necessary to afford relief; and
6. The requested variance will not be detrimental to public welfare.

Motion by Mr. Mills, seconded by Ms. Magee, and carried unanimously that the **variance from the corner front yard setback requirement for the proposed dwelling and porch be granted for the reasons stated**. Motion carried 3 – 0.

The vote by roll call; Mr. Mills – yea, Ms. Magee – yea, and Mr. Callaway – yea.

Mr. Mills asked Mrs. Walls about the upcoming hearing dates in April and July.

Meeting Adjourned 10:00 p.m.