

## MINUTES OF JANUARY 24, 2022

The regular meeting of the Sussex County Board of Adjustment was held on Monday, January 24, 2022, at 6:00 p.m. in the County Council Chamber, Sussex County Administration Office Building, Georgetown, Delaware. The teleconference system was tested during the meeting by staff to confirm connectivity.

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

The Pledge of Allegiance was led by Mr. Williamson.

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

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

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

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

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

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

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

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

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

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

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

Mr. Sharp noted that Case No. 12653 for Rodger Pearce was withdrawn and removed from the agenda on January 19, 2022.

### **PUBLIC HEARINGS**

**Case No. 12649 – James C. DiPaula, TTEE** seeks variances from the front yard setback, side yard setback, and maximum fence height requirement requirements for proposed structures (Sections 115-34, 115-182, 115-183, and 115-185 of the Sussex County Zoning Code). The property is located on the south side of Penn Street at the East Lake Drive and Penn Street intersection. 911 Address: 2 Penn Street, Rehoboth Beach. Zoning District: MR. Tax Parcel: 334-20.06-112.00.

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received two letters in support of and one letter in opposition to the Application and zero mail returns. The Applicant is requesting a 13.9 ft. variance from the 30 ft. front yard requirement for a proposed pool, a 0.5 ft. variance from the 3.5 ft. maximum height requirement for a fence in the front yard setback, and an 8 ft. variance from the 10 ft. side yard setback requirement on the south side for mechanical equipment.

The Board found that Mr. Fred Townsend, Esq. was present on behalf of the Applicant James C. DiPaula.

Mr. James DiPaula was sworn in by teleconference to give testimony about the Application.

Ms. Meredith Beach, Landscape Architect, was sworn in to give testimony about the Application.

Mr. Townsend referred to the exhibits during his presentation.

Mr. Townsend stated that the Applicant is seeking a variance for a pool, fence, and mechanical equipment; that this property is unique and presents unusual circumstances; that the property is located at 2 Penn Street at the corner of East Lake Drive; that it is a corner lot which fronts on East Lake Drive; that Penn Street is a right-of-way which runs all the way to the beach but is only partly paved; that there was a dwelling on the site which is no longer in existence; that there is a dune setback along the ocean side which reduces the building envelope; that the construction of the new dwelling is underway; that 64% of the lot is encumbered by setbacks; that the building envelope is shifted west towards Silver Lake Drive; that there is a 15 ft. setback from Penn Street; that the lot is a deep but narrow lot; that the Applicant is seeking to locate a pool in an area where a pool previously existed; that the prior pool was removed in 2020 and was there for a long time; that the Applicant is unaware of any complaints about the location of the prior pool; that the Applicant is requesting to place a pool

on the west side of the property; that the pool will be no closer than 16.1 ft. from the property line on East Lake Drive; that front yard setbacks restrict fence heights to 3.5 feet but the requirement for a pool is to have a 4 ft. tall fence for safety; that the Applicant has the support of two of the neighbors; that the adjoining neighbor supports the fence and the pool but opposes the equipment in the side yard; that this build will include geothermal equipment so it will reduce the noise that would be caused by compressors; that a generator for emergencies will be placed in the side yard and it will turn on periodically for testing; that the pool equipment will also be placed in the side yard so that it is not occupying space in the yard; that it has a circulation pump that will run while the pool is in use and is quiet; that the vacuum pump will be louder but would be used less frequently; that the exceptional practical difficulty is created by the building envelope being pushed forward and towards the side; that the letter of objection from Dr. Sweeney stated that she had concerns about the HVAC but, as stated, the HVAC units will not be in this area; that the Applicant would consider installing a fence if required to mitigate any noise that may be caused by the mechanical equipment; that the area along East Lake Drive is a thickly wooded area so the fence and pool will not be visible to people passing by; that the pool cannot be closer to the dwelling for safety and access to the home; that this is the only location where the pool can be located; that there are similar front yard pools in this area so it is not inconsistent with the neighborhood; that the economics of a lot like this necessitate a pool; that the pool is not large; that the pool will not affect the quiet enjoyment of the neighborhood; that there is a unique, steep incline in the front yard that helps to mitigate and hide the pool; that the prior owner removed the house, resubdivided the lots, and sold the lots; that the foundation is there now; and that, due to the cost of the lot, the building envelope is to be maximized.

Ms. Beach testified that there is between 7 – 12 ft. between the edge of East Lake Drive to the property line which provides an existing vegetative buffer; that the Applicant intends to add additional planting on his property to make this more private; that the fence will be approximately 7 – 12 ft. from the road; that the rise continues beyond the property line that the fence will be inconspicuous with plantings on either side; that there will be coping around the pool 18 to 24 inches wide and then lawn; that there will be a terrace between the house and the pool; and that the mechanical equipment could not be placed under the steps at the rear of the house as they need to be set 3 ft. from the structure.

Mr. Townsend stated that the generator will be obscured; that the pool equipment will be indiscreet if located in the front yard; that the Applicant tried to keep the pool away from steps to provide additional safety; that the pool will be less objectionable than the prior pool; that the generator has not yet been installed; that he has no specs as to the noise of the generator; and that the entrance to the dwelling will be off Penn Street and there will be a garage under the house adjacent to the steps.

Ms. Beach testified that the house was designed with the plan to add a pool; that the mechanicals could not be added on the north side of the dwelling as there is a steep incline past the front door which would make it more challenging; and that they needed a flatter surface for the mechanical equipment.

Mr. DiPaula testified that generator would self-test once a week; that the generator will have sound mitigation features; that the house will be located on pilings that will be below ground and that the house will be on grade; that he is not aware of any plans that Dr. Sweeney has for her property; that he intends that the generator will be run off propane; that the dwelling will consist of 12,000 sf.; that he is one of seven children and his home is shared with three generations of his family; that he is working to collaborate with neighbors; and that all the lots are approximately 75 ft. in width but, because of the location on Penn Street, he has an additional 5 ft. setback that neighboring lots do not have.

Mr. DiPaula affirmed that the statements made by Mr. Townsend as true and correct except for the statement about the testing of the generator.

Mr. Townsend stated that the Applicant is willing to install at 7 foot tall fence next to the mechanical equipment.

Ms. Beach testified that a 7 foot tall fence would be taller than the mechanical equipment.

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

Mr. Williamson closed the public hearing.

Mr. Warfel moved to approve Case No. 12649 for the requested variances for the swimming pool and fence, pending final written decision, for the following reasons:

1. The property has unique conditions due to the exceptionally small buildable area;
2. That, due to the physical conditions, the property cannot be developed in strict conformity with Sussex County Zoning Code and the variances for those structures are necessary to enable the reasonable use of the property;
3. The exceptional practical difficulty was not created by the Applicant;
4. The variances for those structures will not alter the essential character of the neighborhood nor substantially or permanently impair the appropriate use or development of adjacent property nor be detrimental to the public welfare; and
5. The variances for the pool and fence represent the minimum variances necessary to afford relief.

Mr. Warfel moved to deny Case No. 12649 for the requested variance for the mechanicals, pending final written decision, for the following reasons:

1. The variance for the mechanical equipment does not represent the minimum variance to afford relief.

Motion by Mr. Warfel, seconded by Mr. Chorman, carried unanimously that the **variances**

**be approved in part and denied in part for the reasons stated.** Motion carried 5 – 0.

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

**Case No. 12650 – Sandy Wilkinson** seeks variances from the rear yard setback requirements and from the minimum aggregate front yard and rear yard requirements for proposed structures (Sections 115-34, 115-183 and 115-188 of the Sussex County Zoning Code). The property is located on the north side of Tower Place within the Overlook subdivision. 911 Address: 30569 Tower Place, Selbyville. Zoning District: MR-RPC. Tax Parcel: 533-20.00-90.00

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 zero mail returns. The Applicant is requesting a 3 ft. variance from the 15 ft. rear yard setback requirement for a proposed screen porch and a 1 ft. variance from the 40 ft. aggregate front and rear yard requirement for townhouse.

Mr. Kevin McNelis of Riptide Construction was sworn in to give testimony about the Application.

Mr. McNelis submitted pictures to Board members.

Mr. McNelis testified that the Applicant is requesting two variances for the construction of a screen porch; that there is an open runoff area to the rear of the home; that there are green flies which prohibit the Applicant from using the outdoor patio; that the porch will not project farther than the existing patio; that a porch of 14 ft. would be consistent with the other porches; that the community is approximately five years old; that the builder did not offer porches in its design; that some of the other homes have porches so this porch will not alter the essential character of the neighborhood; that this townhouse block is unique because it is a tighter design as compared to other townhouse blocks in the neighborhood; that there are only 5 townhouses on this block; that the aesthetics of the porch are terrible if it was built into compliance with the Code; that a neighbor received a similar variance as well; that there are no steps that will protrude farther into the setbacks; that the porch would not be functional for the Applicant at 11 ft.; that the size is necessary to accommodate a large family comfortably; that the Applicant would not be able to fit a table if the porch was built into compliance with the Code; that HOA approval will be required; that there are similar variances for this development; that this is the full-time residence of the Applicant; that most of the neighbors live here part-time; and that the Applicant has not contacted the neighbors regarding this porch.

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

Mr. Williamson closed the public hearing.

Motion by Mr. Warfel, that the record be left open for Case No. 12650 until the second meeting in February so that the Applicant can represent herself. Motion failed for lack of second.

Mr. Hastings moved to approve Case No. 12650 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique conditions; and
2. The variances represent the minimum variances necessary to afford relief and represent the least modifications of the regulations at issue.

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

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

**Case No. 12651 – Beachfire Brewing Company, LLC** seek a special use exception to place a tent for more than three days. (Sections 115-80 and 115-210 of the Sussex County Zoning Code). The property is located on the northeast corner of Central Avenue and Johnston Street within the Shockley subdivision. 911 Address: 19841 Central Avenue, Rehoboth Beach. Zoning District: C-1. Tax Parcel: 334-13.20-24.00

Ms. Norwood 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 zero mail returns. The Applicant is requesting a special use exception to retain a tent for a period of 5 years.

The Board found that Ms. Mackenzie Peet, Esq. was present on behalf of the Applicant, Beachfire Brewing Company, LLC.

Mr. Brian Nelson was sworn in by teleconference to give testimony about the Application.

Ms. Peet stated that she is representing Beachfire Brewing Company, LLC, which is doing business as Revelation Craft Brewing Company; that the Applicant is a local microbrewery; that Revelation leases this property from EKC Brewery, LLC, and the property is in a General Commercial (C-1) zoning district; that there are other commercial uses in the area, such as a furniture store and Tomato Sunshine, in addition to residential uses; that the Applicant leases property across the street for parking; that Revelation is seeking to continue the use of a 15 feet by 30 feet tent on the property for a period exceeding three days pursuant to §§115-80 and 115-210 of the Sussex County Code; that the Applicant received a special use exception to maintain a tent on the property in 2019 and that approval expired on December 31, 2021; that the Application was submitted prior to the expiration date; that the Applicant has originally planned to move the operation to a new location and did not anticipate needed the special use exception for more than a couple of years; that the Covid-19

pandemic changed plans as there was no income during the shutdown period; that the Applicant extended its lease at the current location to the end of 2024; that the Applicant is now seeking the special use exception for a period of five years but at least through the end of 2024; that the original application included variance requests which were granted; that the special use exception was granted subject to three conditions, that the use was only valid through December 2021, that no music would be permitted from the hours of 8:00 pm through 9:00 am, and that use did not supersede any conditions placed by County Council for the conditional use approval; that the use of this tent will not substantially adversely affect the uses of neighboring and adjacent properties; that the property has operated as a microbrewery since 2015; that the tent will continue to serve as additional patron space for the brewery; that the business operates from 12:00 pm to 9:00 pm with extended hours on the weekend; that summer hours are 11:00 am until 11:00 pm with the exception of special events when they open at 9:00 am; that parking is provided off-site and is confirmed by two letters included with the Application; that most of the patrons travel to this site by foot or by bicycle as it is near the bike trail; that the Applicant has bike racks on site; that this use will not substantially adversely impact the uses of neighboring or adjacent properties; that the tent has been up since the previous approval; that pictures of the tent have not been submitted; that the tent is the first thing you see when you reach the property so it is important for the applicant to keep it maintained as it is the first impression when patrons come to Revelation; that there are leases for the parking areas with the option to renew if necessary; that the Applicant proposes no changes to the prior conditions; and that the Applicant intends to relocate to a different location in Rehoboth when it makes financial sense to do so.

Mr. Nelson testified that there have been no complaints regarding the tent use; that the lease has been renewed for the next three years at the current location; that, in the future, Revelation would like to move to a more suitable location but remain close to the Junction Breakwater Trail; that the tent has been maintained; that music is not played beyond the time conditioned by the previous approval; that the tent has temporary side walls that are removed during the summer and put back up in the colder weather; that the same material that is used to cover boats is used on the tent; that the tent has been replaced and gives it a cleaner look; that the tent does not look dilapidated; that the tent is strapped down to 500 lb. concrete blocks; that there has been no storm damage to the tent; that there are no issues with parking; and that most patrons arrive via foot or bike.

**Recess due to technical issue**  
**7:42 p.m. – 7:45 p.m.**

Ms. Peet stated that it was the Applicant's intent to move the business to a new location; that the Covid-19 pandemic has affected those plans; that the request is for a special use exception for five years but at least to the end of 2024 when the lease ends; that there are no lights associated with the tent that project onto neighboring properties; that most of the main building is not for patron use but is for the brewing operation; and that the main building does not have much available seating.

Mr. Nelson testified that Revelation would like the special use exception approval at least through the end of the current lease; that, if the special use exception is only granted for two years, it

would put the company in a difficult situation for the remainder of the lease; that the lease for the off-site parking is concurrent with the lease for the microbrewery; that the tent is heated by a propane heater sending forced air into the tent; that the tent has been approved by the Fire Marshal; that there are string lights and TVs inside the tent; that patrons enter on the Johnson Street side of the property; that the exit is on the other side of the tent per Covid requirements; that Revelation abides by the 30 – 40 seat capacity and he is not aware of there being more people present than the maximum capacity.

Mr. Nelson affirmed that the statements made by Ms. Peet as true and correct.

Mr. Sharp explained the special use exception is a temporary approval and the Board may set time limits on the application, if approved.

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

Mr. Williamson closed the public hearing.

Mr. Chorman moved to approve Case No. 12651 for the special use exception for the tent until December 31, 2024, because the proposed use will not substantially adversely affect the uses of neighboring and adjacent properties, and that the approval be subject to the following conditions:

1. That the conditions of the previous special use exception remain except for the expiration date;
2. The tent must be kept in good repair; and
3. Proof that the Fire Marshal approves the existing tent must be submitted to the Office of Planning & Zoning.

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

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

**Case No. 12652 – Theodore John Banks** seeks a variance from the front yard setback requirement for a proposed structure (Sections 115-25 and 115-182 of the Sussex County Zoning Code). The property is located at the west side of Whites Neck Road approximately 380 feet north of Old Mill Road. 911 Address: 30708 Whites Neck Road, Dagsboro. Zoning District: AR-1. Tax Map: 134-8.00-10.00

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 zero mail returns. The Applicant is requesting a 9.9 ft. and a 9.7 ft. variance from the 40 ft. front yard setback requirement for a proposed porch and a 1.7 ft. variance from the 40 ft. front yard setback requirement for the



proposed ramp.

Mr. Theodore Banks was sworn in to give testimony about the Application.

Mr. Banks submitted pictures to Board members.

Mr. Banks testified that he uses a wheelchair; that his family owns neighboring lands; that he is installing a ramp in the rear yard near his bedroom that will access a porch being installed; that this ramp and porch are being requested so that he will have another exit to the home in case of emergency; that he needs room to safely navigate his wheelchair; that the house is 36 feet wide; that these structures will not bother neighbors; that the property is served by septic; that the location of the septic system limits where the porch can be constructed; that there is approximately 10 ft. between the edge of paving of Whites Neck Road and the front property line; that the house was constructed in 1952 by a prior owner; that there is a well in front of the dwelling but that he hopes to put a new well in the rear of the lot; that this porch and ramp will not cause any visibility issues for vehicular traffic on the road; that the structures will give reasonable access to the home; and that it will be an open porch.

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

Mr. Williamson closed the public hearing.

Mr. Hastings moved to approve Case No. 12652 for the requested variances, pending final written decision, for the following reasons:

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

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

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

**Case No. 12654 – DMR Properties, LLC** seek a variance from the front yard setback and the rear yard setback requirements for a proposed structure (Sections 115-82, 115-182, 115-183, and 115-185 of the Sussex County Zoning Code). The property is located at the west side of John J. Williams Highway (Rt. 14) approximately 851 feet north of Bay Farm Road. 911 Address: N/A. Zoning District: C-1. Tax Map: 234-23.00-180.00 and 234-23.00-181.00

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 zero mail returns. The Applicant is requesting a 6.58 ft. variance from the 60 ft. front yard setback requirement and a 10 ft. variance from the 30 ft. rear yard setback for a proposed building.

The Board found that Mr. David Hutt, Esq., was present on behalf of the Applicant Rojan LN 21, LLC.

Mr. Robert Aaronson, Principal of Rojan Ln 21, LLC, and Mr. Mark Davidson, land use planner with Pennoni, were sworn in to give testimony about the Application.

Mr. Hutt stated that this is a two-parcel property which will become one parcel located on the west side of Route 24; that the property is zoned General Commercial; that there are many commercial uses along Route 24 in this area including a Dollar General, Kick n Chicken, Cadia Healthcare, Tidemark Federal Credit Union, Wawa, restaurants, WSFS bank, retail shops, Giant grocery store, a carwash, and Harris Teeter; that the property is presently unimproved; that, because the property is adjacent to residential property, the setbacks are increased; that, if it were commercial use next to commercial use, the setbacks would only be 5 feet in the rear and 5 ft. on the side; that the setbacks are rear yard of 30 ft. and the side yard setback is 20 ft.; that the request for the rear yard variance is to reduce the setback from 30 ft. to 20 ft; that there is no variance sought from the side yard in this application; that the request for the front yard is to reduce the 60 ft. to 53.42 ft. for a variance of 6.58 ft.; that these lots were subdivided in 1952 by Elijah Steel; that the lots were 75 ft. by 150 ft. each; that DelDOT classifies this road as a major collector; that, in 2017, DelDOT acquired 26 ft. of these lots making the lots 75 ft. by 124 ft.; that a number of efforts were made by the prior owner to develop this property; that, due to the narrowness of the lots and the reduced depth of the lots, it was not feasible to develop them individually even with a shared entrance; that the lots have to be combined to create a safe ingress and egress and also safe maneuvering within the site; that space is needed for stormwater management as well; that the Applicant tried other layouts but it was not otherwise viable; that DelDOT also has a 15 ft. permanent easement; that DelDOT has approved the reduction of the easement to 5 ft.; that the proposed building was designed to be close to the property line of the commercial use to the south which keeps the building away from the residential use to the north side where the entrance would be located; that this is similar to the Dollar General building which is located a few properties to the north of the subject property; that the property is unique because of its shallow depth; that this was created when DelDOT acquired 26 ft. right-of-way; that the variance is necessary to enable the reasonable use of the property because DelDOT took 17% of the overall depth and with the current setbacks any building could only have a depth of 34 ft.; that, prior to the taking, the building envelope was 60 feet deep; that the property cannot otherwise be developed; that, if the building was wider, the turning radius would be lost; that they cannot have vehicles back out onto Route 24 and all vehicles must be able to turn around on the site; that the Applicant did not create the shallowness of the lot; that this was not created by the Applicant but was created in 2017 when DelDOT acquired the right-of-way; that granting the variance will not alter the essential character of the neighborhood as it will be consistent with the commercial nature of Route 24; that other structures on neighboring lots are closer to Route 24 than the building proposed on the property; that the

Applicant will install a solid fence as a buffer between the subject property and the residential property to the rear; that the requested variances are the minimum variances to afford relief; that both variances total 16.58 ft.; and that averaging for the front yard setback was not used because of the different zoning districts along this portion of Route 24.

Mr. Hutt stated that the Applicant has proffered two conditions of approval; that that both lots must be combined; and that a fence be installed along the rear boundary of the property.

Mr. Aaronson affirmed that the statements made by Mr. Hutt as true and correct.

Mr. Aaronson testified that the proposed use will be for a retail operation that will not have late nights; that it will not have a drive-thru window; that deliveries to the building will be once a week; that the commercial customers will likely use the proposed location in Georgetown; that the building will consist of 4,000 square feet; that this location will be a retail operation used primarily by homeowners; and that the property was purchased in 2021.

Mr. Davidson affirmed that the statements made by Mr. Hutt as true and correct.

Mr. Davidson testified that his company has been working on this property with the previous owner; that there has been a pre-submittal meeting with DelDOT regarding the proposed commercial entrance; that the reduction of the 15 ft. permanent easement was approved at that meeting; that the request for a 36 feet wide entrance for safe ingress and egress may be part of the improvements along Route 24; that cross connectivity between property owners was not discussed; that the HVAC will be on the roof; and that that are no steps or loading dock that farther encroach into setbacks.

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

Mr. Williamson closed the public hearing.

Dr. Carson moved to approve Case No. 12654 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique conditions;
2. The exceptional practical difficulty was not created by the Applicant;
3. The variances will not alter the essential character of the neighborhood; and
4. The variances represent the minimum variances necessary to afford relief.

And with the following conditions:

1. That both lots be combined to create one lot; and
2. That a fence be installed along the rear of the property.

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

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

### **ADDITIONAL BUSINESS**

Ms. Norwood introduced Mr. Michael Lowrey, Planner III with the Planning and Zoning Department to the Board Members.

Mr. Sharp informed the Board Members that the cases from the canceled meeting of January 3, 2022, have been rescheduled and will be on the February agendas.

**Meeting adjourned at 8:57 p.m.**