

MINUTES OF JANUARY 8, 2024

The regular meeting of the Sussex County Board of Adjustment was held on Monday, January 8, 2024, at 6:00 p.m. in the County Council Chamber, Sussex County Administration Office Building, Georgetown, Delaware.

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

The Pledge of Allegiance was led by Mr. Chorman.

Motion by Mr. Hastings, seconded by Mr. Williamson and carried unanimously to approve the agenda as amended. Motion carried 5 – 0.

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

Motion by Mr. Warfel, seconded by Dr. Carson and carried unanimously to approve the Minutes for the November 6, 2023, meeting. Motion carried 5 – 0.

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

Motion by Mr. Williamson, seconded by Mr. Warfel and carried to approve the Findings of Facts for the November 6, 2023, meeting. Motion carried 5 – 0.

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

OLD BUSINESS

Case No. 12880 – Harry and Ginger Wille seek variances from the front yard and rear yard setback requirements for existing structures (Sections 115-42, 115-182, 115-183, and 115-185 of the Sussex County Zoning Code). The property is located on the west side of West Lagoon Road within the Dogwood Acres Subdivision. 911 Address: 30833 West Lagoon Road, Dagsboro. Zoning District: GR. Tax Parcel: 134-6.00-72.00

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received thirteen (13) letters in support of, no correspondence in opposition to the Application, and zero mail returns. The Applicants are requesting variances of 24.6 ft. from the 30 ft. front yard setback requirement for the existing steps and 9.9 ft. from the 30 ft. front yard setback requirement for the existing deck. The record was left open at the meeting on November 20, 2023, for the submission of

documents relating to the easement.

Mr. Sharp advised the Board that he found a plot for Dogwood Acres in Plot Book 8, Page 36, which includes a 5 foot easement on the side and rear lines for utilities, drainage, and sanitary sewer.

Mr. Harry Wille was sworn in to give testimony on this application.

Mr. Wille testified that the Applicants believe the easement should default to the homeowners; that, per the research from Fidelity National title and Dogwood Acres HOA acting president Janice Tunnell, the beneficiaries of the easement are the electric and phone companies as provided for a broad easement over all of Dogwood Acres and is not necessarily limited to a 10 foot easement or any of the other stated easements along the property lines; that the roads within Dogwood Acres are a part of the HOA, which is no longer a legal entity as the HOA was dissolved in 2006 and they now operate a voluntary homeowners association; that the initial document for Dogwood Acres development states only certain lots were subject to a 10 foot easement and those were all located within Section 4; that Lot 62 is located within Section 2, which indicates that only certain lots have the 10 foot easement and it is not a blanket 10 foot easement for the entire development; that the survey shows the front steps and the completion of the installation on West Lagoon Road where the termination of asphalt is visible showing another 8 foot depth, creating an additional 8 foot of land between the termination of the road and the legal property line giving 13.4 feet from the edge of the step to the road; and that, if the area was ever needed in the future for sewer, water, or other utilities, there would be 13 feet of unimpeded land area.

Ms. Janice Tunnell was sworn in to testify in support of the Application.

Ms. Tunnell testified that she lives on West Lagoon Road; that, when Mr. Wille spoke to Ms. Tunnell about the easement issue, she wanted to make sure that the roads belong to the residents of Dogwood Acres; that the Dogwood Acres HOA was disbanded in 2006 and reformed as a voluntary homeowners association in 2017 for the purpose of doing lagoons and other things needed per DelDOT; that the roads will not be getting any wider in Dogwood Acres; and that Ms. Tunnell is in full support of the request.

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

Mr. Chorman closed the public hearing.

Mr. Hastings recused himself.

Mr. Warfel moved to approve the application for Case No. 12880 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique conditions due to the pre-existing foundation, slope of the lot, and unusual shape;
2. That, due to the physical conditions, the property cannot be developed in strict conformity with Sussex County Zoning Code, and the variances are necessary to enable the reasonable use of the property;
3. The exceptional practical difficulty was not created by the Applicants;
4. The variances will not alter the essential character of the neighborhood; and
5. The variances represent the minimum variances necessary to afford relief.

Motion by Mr. Warfel, seconded by Mr. Williamson, carried that the **variances be approved for the reasons stated.** Motion carried 4 - 0.

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

PUBLIC HEARINGS

Case No. 12891 – South Salem Dickerson Associates LLC seeks a special use exception for a childcare center (Sections 115-23 and 115-80 of the Sussex County Zoning Code). The property is located on the east side of Sussex Highway approximately 240 ft. north of Orchards End Lane. 911 Address: 18119 Sussex Highway, Unit 2, Bridgeville. Zoning District: C-1/AR-1. Tax Parcel: 131-11.00-12.00

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 special use exception to operate a childcare center.

Ms. Lucretia Greene-Adams was sworn in to give testimony for this application.

Ms. Greene-Adams testified that she is here tonight requesting a special use application for a childcare center in an existing structure currently zoned C-1 / AR-1; that the childcare center would provide service to a minimum of 55 children and up to 90 children daily; that the planned hours of operations would be from 6:00 AM to 6:00 PM, allowing parents to pickup and drop-off before and after work; that the facility would include classrooms for the ages of infant, one year, two years old, three years old, four years old, and school aged children aged 5-12 years old; that the facility would include a kitchen to store and prepare meals, three bathrooms, and an outdoor fenced play area; that the staff will consist of providers with experience in caretaking and education, including a preschool director and administrator, preschool aide, and additional positions to be filled; that there is ample parking in the lot for multiple children to be picked up or dropped off at the same time, as well as other businesses to be in use; that there are fire exits in case of an emergency with fire extinguishers nearby; that cameras will be installed for security purposes in each room, hallways, entrances, and

exits; that other businesses within the building include a doctor's office (Harrison Family Practice) and Utility Line Construction Services, who hold their weekly safety meetings there; that the closest hospital is nearby in Seaford; that the childcare center will not have significant negative impact on surrounding properties as the center is on six acres of CR-1 / AR-1 land surrounded by farmland and other businesses; that the center is easily accessible being directly off a large highway; that the childcare center should not disrupt the peace, safety or convenience of nearby residences or businesses; that the center will be licensed by the state and that there is a great need for childcare in the area, with only two other centers in the Bridgeville area; that the special use exception is being requested for five years plus, with the plan to be open from now to forever; that the fenced outdoor area will not block the fire lane on the back of the building, and will be equipped with a locking latch; that the plan can be expanded to fit more children if deemed necessary; that parents will be asked to drop off their children versus them walking to the facility; that school buses will likely be pulling off on the shoulder of the highway to pick up and drop off students, with the possibility of coming on site; and that no one from state licensing has been to the facility at this time but there are plans to have them out in the future.

Mr. Scott Dickerson was sworn in to testify in support of the Application.

Mr. Dickerson testified that the utilities, water, and sewer would be able to withstand use from the two existing businesses plus the proposed childcare center with up to 90 children; that the electric through Delmarva Power is backed up by a generator; and that the other tenants of the building are all aware of the proposed childcare facility with no known complaints.

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

Mr. Chorman closed the public hearing.

Dr. Carson moved to approve the application for Case No. 12891 for the requested special use exception, pending final written decision, because the proposed use will not substantially affect adversely the use of the adjacent or neighboring properties.

Motion by Dr. Carson, seconded by Mr. Williamson, carried that the **special use exception be approved for the reasons stated.** Motion carried 4 - 1.

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

Mr. Chorman stated that he believed the site was not appropriate for a daycare center of this size.

Case No. 12892 – Ariel Gonzalez seeks variances from the side and rear yard setback requirements for existing structures (Sections 115-25 and 115-182 of the Sussex County Zoning Code). The property is located on the northwest side of Sawmill Road approximately 2461 ft. west of Pine Road. 911 Address: 20116 Sawmill Road, Milton. Zoning District: AR-1. Tax Parcel: 135-4.00-11.01

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application and zero mail returns. The Applicant is requesting variances of 4 ft. from the 5 ft. side yard setback requirement on the northwest side for an existing shed, 7.5 ft. from the 20 ft. rear yard setback requirement for an existing dwelling, and 9 ft. from the 15 ft. side yard setback requirement on the northwest side for an existing dwelling.

Mr. Warfel recused himself and left the Council Chambers.

Mr. Ariel Gonzalez was sworn in to give testimony for this application.

Mr. Gonzalez testified that it is not a very big lot; that it is a small lot with not a lot of room to put something; that he acquired a building permit and inspections for the shed between 2019 and now; that the shed was inspected the same day his house remodels were inspected; that the survey from 2019 Planning and Zoning has on file does not show a shed on the property; that the survey submitted with this application has a hand drawn shed on the survey from Pennoni; that an updated survey was requested; that there was trouble determining if the photos in the file were the same house / shed; that there is the question of if the shed is closer to the property line than originally thought; and that an updated survey, previous building permits, and violations will be acquired for the Board for the next meeting on February 19, 2024.

Mr. John Kline, III, was sworn in to testify in support of the Application.

Mr. Kline testified that he will soon be acquiring the neighboring properties to the west side of Mr. Gonzalez's property; that the shed provides no interference or inconvenience for them at all; and that Mr. Kline also showed Mr. Gonzalez's property backs up to State land on the back side so there is no interference with any neighboring properties.

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

Mr. Chorman closed the public hearing.

Mr. Williamson moved to leave the record open for a limited purpose and to reschedule a hearing for the February 19, 2024, meeting for application for Case No. 12892. As part of his motion, Mr. Williamson moved that the Applicant is to submit to the Board an updated survey of the property

by February 12, 2024, and that Planning & Zoning staff is to provide additional documentation on permits.

Motion by Mr. Williamson, seconded by Mr. Hastings, carried to **keep the record open for the reasons stated**. Motion carried 4 - 0.

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

RECESS: 7:00-7:05PM

Mr. Warfel returned to the Council Chambers.

Case No. 12893 – Richard D. Davis seeks variances from the side and rear yard setback requirements for a proposed structure (Sections 115-25, 115-183, and 115-185 of the Sussex County Zoning Code). The property is located on the north side of Reynolds Pond Road approximately 662 ft. east of Cedar Creek Road. 911 Address: 24325 Reynolds Pond Road, Milton. Zoning District: AR-1. Tax Parcel: 235-7.00-23.12

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received three (3) letters in support of, no correspondence in opposition to the Application, and zero mail returns. The Applicant is requesting variances of 10 ft. from the 15 ft. side yard setback requirement on the west side for a proposed structure and 15 ft. from the 20 ft. rear yard setback requirement for a proposed structure.

Mr. Richard D. Davis was sworn in to give testimony for this application.

Mr. Davis testified that he is requesting a variance for relief from the side and rear property line setback; that, due to the current restriction of the property to allow construction of a new proposed storage building; that the restrictions include: Delaware Electric Co-Op has a 50 ft. easement through the centerline of the property and will not modify the restriction, and the drain field is currently affecting where the proposed building is supposed to be built; that a soil evaluation has been done by Axiom Engineering and DNREC approved standard septic for the proposed area on October 10, 2023, to modify the drain field area; that the proposed building will be set in the partially wooded area in the back right corner of the lot; that he is not able to be put the structure in the back left corner due to the distribution box and septic tank; that he would like to store antique cars, a lawn mower, and a boat in the proposed building to keep them out of the elements and well taken care of; that a few trees will need to be removed along with removing the sheds in the backyard; that the surrounding neighbors have no opposition to the proposed building; that he would like to put a 10 ft. apron on the front of the proposed building and needs the variance to keep a buffer zone between Delaware Electric Co-Op's easement and the apron to prevent potential damage from their equipment; that, if he put the storage building in the front yard, it would block access to the easement and to the rear yard; and that

he looked at smaller buildings but they did not work for his intended use.

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

Mr. Chorman closed the public hearing.

Mr. Hastings moved to approve the application for Case No. 12893 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique conditions due to the Delaware Electric Cooperative easement;
2. That, due to the physical conditions, the property cannot be developed in strict conformity with Sussex County Zoning Code, and the variances are necessary to enable the reasonable use of the property;
3. The exceptional practical difficulty was not created by the Applicant;
4. The variances will not alter the essential character of the neighborhood; and
5. The variances represent the minimum variances necessary to afford relief.

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

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

Mr. Williamson said that he believed the exceptional practical difficulty was created by the Applicant.

Case No. 12894 – Maria and William Bochte seek variances from the rear yard setback requirements for an existing structure (Sections 115-25 and 115-183 of the Sussex County Zoning Code). The property is located on the south side of Dauphine Street within the Four Seasons at Belle Terre Subdivision. 911 Address: 21296 Dauphine Street, Lewes. Zoning District: AR-1. Tax Map: 334-12.00-1281.00

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application and one (1) mail return. The Applicants are requesting variances of 2.6 ft., 3.2 ft., and 2.1 ft. from the 5 ft. rear yard setback requirement for an existing deck.

Ms. Maria Bochte, Mr. William Bochte, and Mr. Shawn Chapman were sworn in to give testimony for this application.

Mr. Bochte testified that him and his wife, Maria, own and reside at the property; that he did not want to be in a controversial or adversarial position with Mr. Chapman; that he and his wife

designed a deck, accepted bids, went with Mr. Chapman, had a building permit issued and had Mr. Chapman begin building the deck; that they assumed the deck was being built to code; that, when he found that it was not, they applied for the variance from the rear yard setback; that the deck does not affect any uses in the community but it actually blends in with the community; that his neighbor enjoys it; that adjacent to the common area behind his house is a wooded wetland; that the distance between the deck and the lot line of the lot line of the people to the rear is 136 feet at the shortest point; that the slope in the rear yard is significant as compared to other lots nearby; that he relied on his contractor; and that he spent \$7,000.00 on furniture for the deck that cannot be used if the deck was smaller.

Mr. Chapman testified that they are seeking a variance from the rear yard setback for a deck that was built; that he is the contractor but his workers built the deck while he was not there due to him and his wife having a baby; that he thought the cantilever would allow extra space for the deck, resulting in the deck being too close to the setback; that, when his wife went into labor, he was not on the jobsite keeping an eye on the workers and the setbacks were not checked as the deck was continuing being built; that the deck is roughly 8 feet tall, meeting with the first floor of the house due to the slope in their backyard; that the bump out for the grill is roughly 28-30 inches; that the deck was almost completed by the time that they found out the setbacks were incorrect; that he made an error in reviewing the building permit regarding setbacks; that the slope in the back yard is so pronounced that an elevated deck is the only option for an outdoor area, as grass or a patio would not be suitable.

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

Mr. Chorman closed the public hearing.

Mr. Warfel moved to approve the application for Case No. 12894 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique conditions due to the slope and run off from the back of the property making it unusable for a ground level patio;
2. That, due to the physical conditions, the property cannot be developed in strict conformity with Sussex County Zoning Code, and the variances are necessary to enable the reasonable use of the property;
3. The exceptional practical difficulty was not created by the Applicants;
4. The variances will not alter the essential character of the neighborhood; and
5. The variances represent the minimum variances necessary to afford relief.

Motion by Mr. Warfel, seconded by Mr. Williamson, carried that the **variances be approved for the reasons stated**. Motion carried 3 - 2.

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

Case No. 12895 – Hunter and Jessica Jones seek a variance from the side yard setback requirement for an existing structure (Sections 115-42 and 115-183 of the Sussex County Zoning Code). The property is located on the southeast side of 2nd Street within the Tru Vale Acres Subdivision. 911 Address: 634 2nd Street, Rehoboth Beach. Zoning District: GR. Tax Map: 334-13.00-37.01

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received one (1) letter in support of, no correspondence in opposition to the Application, and zero mail returns. The Applicants are requesting a variance of 6.3 ft. from the 10 ft. rear side yard setback requirement on the north side for an existing structure.

Mr. Hunter Jones was sworn in to give testimony for this application.

Mr. Jones testified that they are requesting a variance from the side setbacks of the property to bring the existing, nonconforming pole building into compliance; that the current lot has a unique shape, coupled with the fact that the back of the lot is heavily wooded and wet; that Munchy Creek runs right through the back of the property, making it unsuitable for a dwelling, along with the shape of the property; that a company was hired to construct the pole building and they placed the one corner of the pole building too close to the setback; that the contractor placed 4 stakes prior to placing the home but moved the stakes when setting the structure; that they acquired a letter of support from the neighboring property owner; that the current configuration and design of the pole building does not alter the essential character of the surrounding community and given the uniqueness of both the property shape and the property being unsuitable to build in some areas, the variance would create relief for the project; that Pole Buildings Unlimited is responsible for the placement of the pole building and there was no communication or knowledge to Mr. Jones that the setbacks were being encroached; that he called Pole Buildings Unlimited to discuss the issue and was dismissed with no answer; that the pole building has 1 door for 2 cars; that it is easier to get a car into the pole building; that there is a 10 foot easement for a drain from the road to Munchy Branch; that the rear of the property is considered wetlands; that he has received no complaints about the structure; that he does not need HOA approval for the structure; and that the property is in a flood zone.

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

Mr. Chorman closed the public hearing.

Mr. Hastings moved to approve the application for Case No. 12895 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique conditions due to the shape of the property and the wetlands;

2. That, due to the physical conditions, the property cannot be developed in strict conformity with Sussex County Zoning Code, and the variance is necessary to enable the reasonable use of the property;
3. The exceptional practical difficulty was not created by the Applicants;
4. The variance will not alter the essential character of the neighborhood; and
5. The variance represents the minimum variance necessary to afford relief.

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

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

Case No. 12896 – Barbara J. Hitch Trust seeks variances from the lot width and lot area requirements for proposed lots and from the front and side yard setback requirements for existing structures (Sections 115-25, 115-182, and 115-183 of the Sussex County Zoning Code). The properties are located on the southwest side of Seaford Road approximately 0.06 miles from Johnson / Ockels Road. 911 Address: 26706 and 26718 Seaford Road, Seaford. Zoning District: AR-1. Tax Map: 132-6.00-163.00 & 164.00

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 variance of 45 ft. from the 150 ft. lot width requirement for Lot 5A, 44.8 ft. from the 150 ft. lot width requirement for Lot 4A, 11,646 sq. ft. from the 32,670 sq. ft. lot area requirement for Lot 5A, 11,686 sq. ft. from the 32,670 sq. ft. lot area requirement for Lot 4A, 2.9 ft. from the 15 ft. side yard setback requirement on the north side for the existing dwelling on Lot 4A, and 31.1 ft. from the 40 ft. front yard setback requirement for the existing dwelling on Lot 5A.

Ms. Shannon Carmean Burton presented the application on behalf of the Applicant.

Mrs. Burton stated that she is here representing the Applicant Wayne Turner; that they are seeking several variances from the minimum lot width requirement of 150 ft. for both parcels, the minimum lot area requirement for both parcels, with the purpose of a boundary line adjustment to bring the existing structures into compliance with the Code and to cure the existing encroachment on to Lot 5A and, although not required for the boundary line adjustment, it will aid in cleaning up the properties; that the additional variance from the front yard setback for Lot 5A and side yard for Lot 4A; that the properties are located at 26706 and 26718 Seaford Road, Florence E Johnson Subdivision, Seaford, Sussex County, Delaware, Parcel 163 is known as Lot 5A and 164 is known as Lot 4A; that the original subdivision lots are only 70 ft. in width and contain approximately 14,000 square ft. of land; that both parcels are zoned AR-1, with both lots having onsite water and septic; that these properties are both unique with Lot 5A being 140.2 ft. wide and consisting of 20,012 sq. ft. or 0.643 acres of lot area and Lot 4A being 70 ft. wide and consisting of 14,027 sq. ft. or 0.322 acres of lot

area; that Lot 4A is very narrow due to the existing structures that encroach into the side yard setback as well as on to Lot 5A; that, based on the boundary line adjustment plan proposed, the lot width for Lot 5A would be 105.2 ft. with a proposed lot area of 21,024 square ft. or 0.483 acres and the lot width for Lot 4A would be 105.2 ft. with a proposed lot area of 20,984 square ft. or 0.482 acres of land; that they are also seeking a 44.8 ft. variance from the 150 ft. minimum lot width requirement for Lot 5A, a 45 ft. variance from the 150 ft. lot width requirement for Lot 4A, a 11,646 sq. ft. variance from the minimum lot area of 32,670 sq. ft. for Lot 5A, an 11,686 sq. ft. variance from the minimum lot area of 32,670 sq. ft. for Lot 5A, and 11,686 sq. ft. variance from the minimum lot area 32,670 sq. ft. for Lot 4A, a 31.1 ft. variance from the 40 ft. front yard setback requirement for the existing dwelling on Lot 5A, a 2.9 ft. variance from the 15 ft. side yard setback requirement for Lot 4A; that there is no possibility that the properties can be developed within strict conformity with the current zoning ordinance and code; that the difficulty has not been created by the Applicants and the buyer was unaware of the zoning violations; that, once discovered, the variances were applied for; that, if the variances are authorized, they will not alter the essential character of the neighborhood or district in which their properties are located nor will they permanently impair the appropriate use or development of the adjacent property or be detrimental to the public welfare of the improvements that have been in their current locations for a very long time; and that, to their knowledge, there have been no complaints about structures or the proposal.

Mr. Wayne Turner was sworn in to give testimony for this application.

Mr. Turner affirmed the statements made by Mrs. Burton as true and correct. Mr. Turner testified that the setback variances proposed would help clean up the non-conforming boundary lines of the two properties; that the structure on Lot 5A is fairly dilapidated and unlivable; that the house on Lot 5A was used as a gas station in 1967; that the structure on Lot 4A was previously used as a restaurant; that the structure on Lot 4A is in useable condition but the current zoning requirements restrict any additional structures; that the idea is to take part of Lot 5A, add it on to Lot 4A, and create similar sized lots; that Lot 4A has had no changes in 57 years; that he has received no complaints about the structures; and that there is a gap of 3-5 feet between the front property line and the edge of paving.

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

Mr. Chorman closed the public hearing.

Mr. Warfel moved to approve the application for Case No. 12896 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique conditions due to the unique history of development and the small lot sizes;

2. That, due to the physical conditions, the property cannot be developed in strict conformity with Sussex County Zoning Code, and the variances are necessary to enable the reasonable use of the property;
3. The exceptional practical difficulty was not created by the Applicant;
4. The variances will not alter the essential character of the neighborhood; and
5. The variances represent the minimum variances necessary to afford relief.

Motion by Mr. Warfel, seconded by Dr. Carson, carried that the **variances be approved for the reasons stated.** Motion carried 5 - 0.

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

ADDITIONAL BUSINESS

Meeting adjourned at 8:20 p.m.