

## **MINUTES OF JULY 12, 2021**

The regular meeting of the Sussex County Board of Adjustment was held on Monday, July 12, 2021, 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 - Absent, Mr. John T. Hastings, Mr. John Williamson, and Mr. Jordan Warfel. Also, in attendance were Mr. James Sharp, Esquire – Assistant County Attorney, and staff members Mr. Chase Phillips – Planner I, and Ms. Ann Lepore – Recording Secretary.

The Pledge of Allegiance was led by Mr. Williamson.

Mr. Sharp announced that there has been a request to amend the Agenda to move Case No. 12584 to the front of the Agenda and to move Case No. 12582 to the end of the Agenda. Mr. Sharp also noted that the Agenda listed 6:00 pm as the meeting time but the website listed 6:30 pm. In order to avoid confusion, Mr. Sharp recommended that the Board take a recess after the additional business matters have been addressed and begin the public hearings at 6:30 pm.

Motion by Dr. Carson, seconded by Mr. Hastings, and carried unanimously to approve the amended agenda. Motion carried 4 – 0.

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

Motion by Mr. Hastings, seconded by Dr. Carson, and carried to approve the Minutes for the May 3, 2021, meeting. Motion carried 3– 0.

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

Motion by Dr. Carson, seconded by Mr. Hastings, and carried to approve the Findings of Facts for the May 3, 2021, meeting. Motion carried 3 – 0.

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

### **ADDITIONAL BUSINESS**

#### **Reorganization**

Mr. Phillips opened nominations.

Dr. Carson nominated Mr. Williamson for Chair. There were no other nominations. Mr. Phillips closed the nominations. The vote was 4-0 in favor.

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

Mr. Hastings nominated Dr. Carson as Vice-Chair. There were no other nominations. Mr. Phillips closed the nominations. The vote was 4-0 in favor.

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

Mr. Williamson called for nominations for Board Secretary. Dr. Carson nominated the Director of Planning & Zoning, Assistant Director of Planning and Zoning, or his/her designee as Board secretary. There were no other nominations. The vote was 4-0 in favor.

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

**Recess  
6:05 p.m. – 6:30 p.m.**

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

**PUBLIC HEARINGS**

**Case No. 12584 – Michael & Margaret K. Chanoux** seek variances from the front yard setback requirements for proposed structures (Sections 115-25, 115-182, and 115-185 of the Sussex County Zoning Code). The property is located on the southwest side of Lockerman Road and the northeast side of Coastal Highway (Rt. 1) approximately 0.55 mile northwest of Steamboat Landing Road. 911 Addresses: 28708, 28736, & N/A Lockerman Road, Milton. Zoning District: AR-1. Tax Parcels: 235-16.00-8.00, 8.01, & 8.02

Mr. Phillips resented 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 Applicants are requesting blanket variances for Lots 1, 2, and 3 for proposed dwellings and related structures. The Applicants seek the following variances applicable to each lot: 1) a variance of 20 feet from the forty (40) feet front yard setback requirement along Route 1 for proposed dwellings and related structures and 2) a variance of 10 feet from the forty (40) feet front yard setback requirement along Lockerman Road for proposed dwellings and related structures. Mr. Phillips noted that the subject site received variances from the minimum lot width for a parcel and variances from the

minimum lot size requirements on August 15, 2016.

Mr. Michael Chanoux, Ms. Margaret Chanoux, and Mr. Ken Christenbury were sworn in to give testimony about the Application.

The Board found that Mr. John Sergovic, Esq., was present on behalf of the Applicants, Michael and Margaret Chanoux.

Mr. Sergovic stated that in the 1960s DelDOT widened Route 1 which caused the road to be elevated and no longer accessible to these lots; that Lockerman Road was previously referred to as Route 14 and dead ends at the Broadkill River; that Lockerman Road used to be an arterial road until the bridge over the Broadkill River was removed; that there is approximately 50-100 feet between the guard rail from Route 1 and the property line; that the requested variances are to provide these lots with the same setbacks as you would find in subdivision lots rather than arterial lots; that Route 14 is no longer an arterial road and Route 1 is inaccessible from the properties; that the inaccessibility to Route 1 led to oddly shaped lots when subdivided; that the lots are wide but not deep; that an existing one-story house and shed encroach; that Lot 3 has an issue as well as it is adjacent to where Route 1 “jags”; that the woodland and wetlands are on State property; that the odd shape of Lot 3 creates a narrow building envelope on the Broadkill River side of the lot; that the land was inherited by Mr. Chanoux’s grandfather; that the widening of Route 1 created long and narrow lots which were approved by a previous Board of Adjustment case; that the exceptional practical difficulty was not created by the Applicants but by the changes to Route 1 during the 1960s; that residue left by DelDOT left a tough to develop area; that it was noted at the prior Board hearing that the Applicants may need variances to build; that there is a slope from Route 1 to these properties which creates a unique situation and the properties cannot be accessed from Route 1; that the requested setback for Lockerman Road is 30 ft. which is common to roads that are non-arterial; that Route 1 is not really arterial to the Applicants since they cannot access it directly from the lots; that the lots are through lots; that granting the variances will not alter the essential character of the neighborhood; that these variances are the minimum variances to afford relief; and that the shed on Lot 2 will be removed.

Mr. Christenbury testified that two site plans have been included with the Application, that the site plan identified as “S-1” shows what is existing today; that the site plan identified as “S-2” is the request of the Applicants; that there is no room to build much on Lot 3; that the character of this neighborhood is these lots as there is a cemetery and agricultural lands nearby; that the properties slope towards the Broadkill River; that the prior owner lost land to DelDOT for Route 1; that Lot 1 is only 89.48 feet deep on the south end but has 80 feet of setbacks; and that, if the variances are granted, there would be approximately 50 ft. of buildable area but without the variances there is approximately 18 feet of buildable area.

Mr. Michael Chanoux affirmed the statements made by Mr. Sergovic as true and correct.

Mr. Chanoux testified that the properties will be developed within the variance approval

period; that he and his wife plan to give a lot to each of their children; that there is a septic system on the property; and that there is public sewer in the area now.

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

Dr. Carson moved to approve Case No. 12584 for the requested variances for the following reasons:

1. The properties have unique physical conditions;
2. That, due to the physical conditions, the properties cannot be developed without the variances;
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 Dr. Carson, seconded by Mr. Warfel, carried that the **variances be granted for the reasons stated**. Motion carried 4 – 0.

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

**Case No. 12579 – Richard & Joanne Orsini** seek variances from the rear yard setback and side yard setback requirements for a proposed structure (Sections 115-42, 115-183 and 115-185 of the Sussex County Zoning Code). The property is located on the northeast side of Oak Street within the Banks Acres Subdivision. 911 Address: 31435 Oak Street, Ocean View. Zoning District: GR. Tax Parcel: 134-12.00-111.00

Mr. Phillips resented the case and stated that the Office of Planning and Zoning received a five-signature petition in support of and no correspondence in opposition to the Application and zero mail returns. The Applicants are requesting a 2 ft. variance from the 5 ft. side yard on the southeast side and a 2 ft. variance from the 5 ft. rear yard setback requirement for a proposed garage. Mr. Phillips notes that the subject property received variances for steps and a covered porch within the front yard setback on May 6, 2019.

Mr. Richard Orsini and Ms. Joanne Orsini were sworn in to give testimony about their Application.

Mr. Orsini testified that his lot is a non-conforming lot consisting of 10,000 square feet; that there was a manufactured home on the property which was removed and a modular home was placed on the lot; that the plan was always to place a garage on the property; that, if the garage was built to the setback restriction line, they would not be able to access the rear yard; that the existing shed has been on the property before they purchased the property; that they purchased the property in 1990;

that they want to use the same footprint on the rear and the side to place the new garage; that there are sheds on neighborhood properties with similar setbacks; that most sheds in the neighborhood are 3 feet off the property line; that the neighbors support the request; that they wish to utilize the existing driveway to access the garage; that there is a well and an in-ground propane tank in the rear of the property which prevent the garage from being built at the other side of the property; that the garage cannot be placed elsewhere on the lot; that the house and porch are constructed; that the garage will measure 24 feet by 24 feet and the shed measured 12 feet by 20 feet; that they need room to access the propane tank and lawn mower; that the propane company sometimes uses the driveway for access to the tank; and that 3 ft. will give him enough space to maintain the building without encroaching on neighboring property.

Ms. Orsini testified that the garage will match the house; that there is no homeowners association in the neighborhood; and that they cannot place the garage too close to the house, which is why it was not built to a setback of 5.5 feet as originally proposed.

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

Mr. Warfel moved to approve Case No. 12579, pending final written decision, for the requested variances for the following reasons:

1. The property has unique physical conditions because it is a small property and because of the location of the propane tanks and well;
2. That, due to the physical conditions, the property cannot be developed in strict conformity;
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. Hastings, carried that the **variances be granted for the reasons stated**. Motion carried 4 – 0.

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

**Case No. 12580 – GREC CO, LLC (William Greco)** seeks a variance from the rear yard setback requirement for a proposed structure (Sections 115-25 and 115-183 of the Sussex County Zoning Code). The property is located on the south side of Annondell Drive within the Harts Landing Subdivision. 911 Address: 20690 Annondell Drive, Lewes. Zoning District: AR-1/RPC. Tax Parcel: 334-18.00-639.00

Mr. Phillips resented 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 4.7 ft. variance from the 20 ft. rear yard setback requirement for a proposed screened

porch.

Mr. William Greco was sworn in to give testimony about his Application.

Mr. Greco testified that he is the owner of Grec Co, LLC; that the relief being sought is for a screened enclosure over the existing concrete patio; that the enclosure will be set back 6 inches from the edge of the patio on the west and north side and will be attached to the house; that the shape of the rear yard is irregular creating a unique situation; that the 20 ft. setback catches the northwest corner of the patio; that the flat surface of the patio is conforming but enclosing it would create non-conformity; that the porch is necessary for the enjoyment of the property; that, during the day, there are greenflies and, in the evening, there are mosquitoes because of the proximity to the wetlands; that the bugs make it difficult to enjoy the rear yard; that there is an area of trees to the rear of the property so this variance will not impact any neighbors; that the road to the rear was never built and he doubts the cul-de-sac will be finished because other lots have access from Love Creek Lane; that Love Creek Lane has been cleared enough to give neighboring properties access; that there are no steps off the patio; that there are no complaints from neighbors; that the proposal has been approved by the HOA; that the porch cannot be placed on the side of the house as there would be no access to the house; that he doubts the HOA would approve a porch in the side yard anyway; that the porch will not project farther into the rear yard than the existing patio; and that the area of encroachment is approximately 25 square feet.

Mr. Phillips noted that Love Creek Lane is a right-of-way that is not fully developed and a portion thereof could be considered a paper street.

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

Mr. Hastings moved to approve Case No. 12580 for the requested variance for the following reasons:

1. The property has unique physical conditions and an odd shape;
2. The variance will not alter the essential character of the neighborhood nor substantially or permanently impair the appropriate use or development of adjacent property; and
3. The variance represents the minimum variance necessary to afford relief and represents the least modification of the regulation at issue.

Motion by Mr. Hastings, seconded by Dr. Carson, carried that the **variance be granted for the reasons stated**. Motion carried 4 – 0.

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

**Case No. 12581 – Matthew & Patricia Busillo** seek variances from the front yard setback and side yard setback requirements for proposed and existing structures (Sections 115-25, 115-182, 115-183, and 115-185 of the Sussex County Zoning Code). The property is located on the south side of 3<sup>rd</sup> Street within the Bay Vista Subdivision. 911 Address: 37416 3<sup>rd</sup> Street, Rehoboth Beach. Zoning District: AR-1. Tax Parcel: 334-19.16-46.00

Mr. Phillips resented 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 the following variances:

- 12.5 ft. from the 30 ft. front yard setback requirement for a proposed covered porch;
- 12.4 ft. from the 30 ft. front yard setback requirement for a proposed covered porch;
- 14.5 ft. from the 30 ft. front yard setback requirement for proposed steps; and
- 14.4 ft. from the 30 ft. front yard setback requirement for proposed steps; and
- 0.9 ft. from the 5 ft. side yard setback requirement on the southeast side for an existing garage.

Mr. Matthew Busillo and Ms. Patricia Busillo were sworn in to give testimony about his Application.

Mr. Busillo testified that they are requesting to place a covered concrete slab porch with an overhang on the front of their house to provide protection when bringing luggage or groceries inside; that there is no HOA for this neighborhood; that neighbors are in support of the request; that the existing dwelling was built before 1955; that the porch will not be screened but will have an overhang; that the garage and house were existing when the Applicants purchased the home in 2012; that the porch will be 5 ft. deep and 15 feet wide; that granting the variances will not create visibility issues on the street; that there are homes in the area that are closer to the road; that the current landing is approximately 3 ft. deep so this request is for an additional 2 ft. with an overhang; and that the edge of paving matches the property line; that the garage is very old; that he believes the windows to the garage predate the zoning code; and that he has received no complaints about the garage.

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

Dr. Carson moved to approve Case No. 12581 for the requested variance for the following reasons:

1. The variances will not alter the essential character of the neighborhood; and
2. The variances represent the minimum variances necessary to afford relief.

Motion by Dr. Carson, seconded by Mr. Hastings, carried that the **variances be granted for the reasons stated**. Motion carried 4 – 0.

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

**Case No. 12583 – Terry Weaver, Sr.** seeks variances from the front yard setback requirements for proposed structures (Sections 115-34 and 115-182 of the Sussex County Zoning Code). The property is located on the south side of Lisa Avenue within the Holly Acres Subdivision. 911 Address: N/A. Zoning District: MR. Tax Parcel: 134-12.00-135.00

Mr. Phillips resented the case and stated that the Office of Planning and Zoning received two letters in support of and none in opposition to the Application and zero mail returns. The Applicant is requesting the following variances:

- 6 ft. from the 30 ft. front yard setback requirement for a proposed covered porch
- 9.3 ft. from the 30 ft. front yard setback requirement for proposed steps

Mr. Terry Weaver was sworn in to give testimony about his Application.

Mr. Weaver testified that the property is a small, empty lot off a private stone road; that the stone road is maintained by the homeowners; that he is requesting to have the porch on the front of the proposed house to maximize the space in the rear yard; that the house will be one level to allow the Applicants to age in place; that the well and the gas tank will be in the rear yard but within the building envelope; that the proposed house consists of approximately 2,500 square feet; that a neighboring house also encroaches into the front yard setback area; that these improvements will not alter the character of the neighborhood; that there are other dwellings in the area with similar front yard setbacks; that the property is served by County sewer; that the well has not yet been drilled; that there is a tax ditch along the property and the house has to be placed away from the tax ditch; that part of the tax ditch is on the Property; that there is a shed on the property that will be moved; that the property does not slope towards the tax ditch; and that there is approximately 12 – 15 feet between the edge of paving and the front property line.

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

Mr. Hastings moved to approve Case No. 12583 for the requested variances 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 property; and
2. The variances represent the minimum variances necessary to afford relief.

Motion by Mr. Hastings, seconded by Dr. Carson, carried that the **variances be granted for the reasons stated.** Motion carried 4 – 0.



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

**Case No. 12582 – John D. Gibson** seeks a special use exception to operate a tourist home and a variance from the side yard setback requirement for an existing structure (Sections 115-32, 115-34, 115-183, 115-185, and 115-210 of the Sussex County Zoning Code). The property is located on the northwest side of Meadow Brook Lane approximately 385 ft. southwest of Victoria Drive. 911 Address: 607 Meadow Brook Lane, Milford. Zoning District: MR. Tax Parcel: 130-3.00-5.00

Mr. Phillips resented the case and stated that the Office of Planning and Zoning received no correspondence in support of and two letters in opposition to the Application and zero mail returns. The Applicant is requesting a 2 ft. variance from the 10 ft. side yard setback requirement on the northeast side for an existing accessory structure and a special use exception to operate a tourist home.

Mr. John Gibson, Mr. Dewey Jackson, and Mr. John Berry were sworn in to give testimony about the Application.

Mr. Jackson testified that the existing garage has been in place for a number of years and does not affect the uses of neighboring properties; that, regarding the special use exception, there is ample parking; that there is an Airbnb on the corner of Meadow Brook Lane and Wisseman Avenue; that some of the residents have vehicles and have assigned parking spaces on the property; that there are background checks for prospective tenants; and that there are no outdoor activities for tenants.

Mr. Sharp explained that a guest home is considered a home where up to six individual rooms are rented out to different individuals and that is different from a person renting the entire house on Airbnb. Mr. Sharp asked the Applicant to explain the structures on the property and how they are being currently used.

Mr. Gibson testified that the house has nine rooms; that six rooms are bedrooms and he lives in one of the bedrooms; that he rents the rooms out on a month-to-month basis to homeless people or people with disabilities who cannot find a home; that people stay on an average of six months; that many of the tenants are registered with the State for housing and waiting for an apartment; that he purchased the house in 2018; that he has been renting rooms since he purchased the house; that there are no cooking facilities in the rooms; that there was an RV on the property but the RV has been removed; that the septic system is approved for six bedrooms; that the garage was in its current location when he bought the house and he has not made any additions to it; that he is not registered as a group home; that the septic system takes up most of the backyard; that there have been no complaints from neighbors; that the original septic system failed and that prompted the installation of the new system in 2020; that he thinks the original septic system failed due to the number of people in the home; that the garage is in safe condition and he has treated it for termites; and that the fence was installed by a prior owner.

Mr. Phillips stated that the garage was built in 1998; and that a building permit was issued but a certificate of compliance has not been issued.

Mr. Berry testified that there are six parking spaces on the property; that the septic system is on the northeast side of the property and he indicated the location on the map; and that the pool and one shed have been removed from the property.

Mr. Robert Godfrey and Ms. Ruthann Godfrey were sworn in to give testimony in opposition to the Application.

Mr. Godfrey read a petition of opposition and then submitted the petition signed by 24 individuals representing 18 properties into the record.

Mr. Godfrey testified that he lives almost directly across the street from the subject property; that the property parks up to 7 vehicles; that there are frequent visits from CHEER, Meals on Wheels, social workers, ambulances, Delaware State Police, septic tank trucks, delivery trucks, family visits, and tow trucks; that he has witnessed fights on the property; that he believes that the home was purchased with the intent to run an illegal group home; that the Applicant does not live at the property but visits the property; that the house appears to be overcrowded with living conditions not advantageous for people with physical and developmental conditions; that the original septic system failed; that property values will be affected; that this is not a tourist home; that a section of the fence has been removed so that vehicles can drive around to the rear of the garage; that this was a quiet residential area until the current owner moved in; that the prior owner did not rent rooms; that he has submitted video and pictures showing the disruption to the neighborhood; and that they hear arguments from the property

Mr. Sharp stated that the video has been submitted into the record and will be aired to allow the Applicant and the public to view it.

Mr. Godfrey testified that police were called to the property when a female person exposed herself on the property; that there have been numerous complaints; that a single mother and two children live next door to this property; that property values will be adversely affected; that he has questions for the Applicant regarding income reporting, business licensing, security monitoring, how he advertises for new residents, and if there is a manager and health care professionals on hand.

Mr. Williamson stated that the purpose of this hearing is regarding the special use exception and the variance.

Mr. Godfrey testified that this Application does not meet the requirement of a tourist home but should apply to the State for a group home license.

Ms. Godfrey testified that she is a realtor by profession; that she had previously shown that home to prospective clients in the past; that her professional opinion was that the home should be torn down and a new house built; that the house was bought with cash; that there were no inspections; that the septic system failed after approximately 18 months; that there are trucks at the property frequently; that she witnessed a fight in the yard; that she feels unsafe in her home; that a house was broken into in the neighborhood; and that there was no crime in the neighborhood until the Applicant purchased the property.

Ms. Godfrey submitted an exhibit into the record.

The video was aired, and Ms. Godfrey gave some commentary on the video. Ms. Godfrey testified to frequent deliveries, noise from those deliveries, and frequent traffic from the property; that there have been no problems with trash accumulation on the property; that cars often park on the side of the road due to the lack of parking on the property; that the community was created in the 1960s and the property can only be used for a single-family dwelling; that she has lived in the neighborhood for 30 years; that more than 4 persons in the home creates a problem; that the parking lot is often full; that she witnessed a woman stripping in the yard; that there have been fights on the property; that the garage has been on the property for many years; and that she has no complaints about the garage.

Mr. Godfrey testified that one car parked in a swale and had to be towed.

**Recess**  
**9:10 p.m. – 9:15 p.m.**

Mr. Charles Coverdale was sworn in to give testimony in opposition to the Application.

Mr. Coverdale testified that this is a single-family home that has six or seven people living here; and he questioned whether the Board had any jurisdiction over this.

Mr. Sharp explained that the Applicant was issued a violation by the Constable's office for the number of people living in a single-family home; that one solution was for the Applicant to apply for a special use exception for a tourist home; that, to be granted a special use exception, the Applicant must demonstrate to the Board that the use as a tourist home will not substantially adversely affect the uses of neighboring and adjacent properties; and that the second request is for a variance for the existing garage.

Mr. Coverdale testified that when cars are parked on the road it is difficult for him to exit his property safely; that the garage has been in place for a long time; and that a lady came to his property looking for a ride to the store.

Ms. Marian White was sworn in to give testimony in opposition to the Application.

Ms. White testified that she is the property owner of 605 Meadow Brook Lane; that she has owned the property for approximately 30 years; that she currently rents her property as a single-family home; that she has received many comments stating what a nice neighborhood this is to live in; that the pictures submitted show what it is like to be the neighbors to 607 Meadow Brook Lane; that the term tourist home conjures the image of a bed-and-breakfast and this is not a bed-and-breakfast; that approving the special use exception will devalue her property and the other nearby homes; that a section of the fence is missing; that, if that area is being used for a vehicle to access the rear of the garage, she has not given permission for anyone to drive across her property; that there was a break-in at her property about 18 months ago; that the garage has been there for many years; and that she has no complaints about the garage.

Mr. Michael Rifenburg was sworn in to give testimony in opposition to the Application.

Mr. Rifenburg testified that he purchased the property directly across from the subject property; that he intends to build a single-family home for resale; that he purchased this property because it was a nice neighborhood; that he has concerns about what is taking place at the subject property; and that this is not a facility for people with disabilities.

Mr. Bruce Craig Crouch was sworn in to give testimony in opposition to the Application.

Mr. Crouch testified that he lives approximately 600 feet from the subject property and has lived there for 27 years; that, in his professional life, he was CEO of Kent-Sussex Industries, Inc which provides training, employment, and transportation services for people with disabilities; that from his professional opinion this looks and acts like a group home; that, to operate a group home, there is an accreditation process and a license must be obtained from the State of Delaware; that health and safety standards must be met and staff must be trained; that his concerns are for the residents; and that he has never seen a residential house with assigned parking spaces.

Ms. Joanne Milton was sworn in to give testimony in opposition to the Application.

Ms. Milton testified that she is a real estate broker; that she does not live in the neighborhood but has sold homes in this community; that the subject property will adversely affect the value of the homes in the neighborhood; that sellers must disclose anything that adversely affects their property; that the existence of this tourist home will deter buyers; that she showed this house before Mr. Gibson purchased it; that it was in a state of disrepair with areas of mold; that this is not a tourist home; and that people do not move into a tourist home and bring all their belongings.

Mr. Gibson testified that he was attracted to the neighborhood as it is a peaceful area; that he apologizes for any distress caused; that he has had no complaints from any neighbors; that many of the residents were living in the woods or their cars; that many were in bad health and that these conditions are in improvement to what they had; that they did get permission from the neighboring tenant to remove the RV through the adjacent property; that the additional parking was added over two years

ago; that he has made improvements to the property; that there are six parking spaces and approximately 12 trips to and from the property daily; and that he is not qualified to get licensing for a group home.

Mr. Jackson testified that many people had testified that property values may be impacted; that no one reported any effects to property values currently; that many of the videos shown were older and the ambulance calls were for the same resident who had many health issues; that the videos show isolated incidents and are not everyday occurrences; and that there is no use or damage to other properties.

The Board found that two persons appeared in support of and seven persons appeared in opposition to the Application.

Dr. Carson moved to approved Case No. 12582 for the approve the variance for the following reasons:

1. The garage is an existing condition
2. The variance will not alter the essential character of the neighborhood; and
3. The variance represents the minimum variance necessary to afford relief.

And to deny the requested special use exception as it will substantially adversely affect the uses of neighboring and adjacent properties.

Motion by Dr. Carson, seconded by Mr. Hastings, carried that the **special use exception be denied and that the variance be granted for the reasons stated.** Motion carried 3 – 1.

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

Mr. Warfel stated that he voted against the motion because he would have voted to deny the variance request.

### **ADDITIONAL BUSINESS**

Mr. Phillips reminded Board members that the July 19, 2021, meeting is canceled, and the next meeting will be on August 2, 2021, at 6:00 pm.

**Meeting adjourned at 9:47 p.m.**