

## MINUTES OF JUNE 1, 2020

The regular meeting of the Sussex County Board of Adjustment was held on Monday, June 1, 2020, at 6:00 p.m. by Teleconference.

The meeting was called to order at 6:00 p.m. with Chair Ellen Magee presiding. The Board members present were: Dr. Kevin Carson, Mr. Jeff Chorman, Ms. Ellen Magee, Mr. John Williamson, and Mr. Brent Workman. Also, in attendance were Mr. James Sharp, Esquire – Assistant County Attorney and staff members Mr. Jamie Whitehouse – Director of Planning and Zoning, Mr. Nick Torrance – Planner I, and Ms. Ann Lepore – Recording Secretary.

Mr. Whitehouse read the following statement at the beginning of the meeting:

Today's Board of Adjustment meeting is being conducted electronically by means of a teleconference under the authority of Governor John C. Carney's declaration of a state of emergency and proclamation number 17-3292. Board of Adjustment members and staff are connected by phone and/or internet and are participating in real time. Members of the public may connect using a telephone conference number that was advertised on this week's agenda. Members of the public may access the packet materials on the County's website. Also, members of the public may listen and view this meeting using the regular chambers broadcast found on the County's website.

Mr. Whitehouse found all members present.

The Pledge of Allegiance was led by Ms. Magee.

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

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

Motion by Mr. Williamson, seconded by Dr. Carson, and carried unanimously to approve the Minutes for the May 4, 2020, meeting. Motion carried 5 – 0.

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

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

## **PUBLIC HEARINGS**

**Case No. 12381 – American Legion, Post 28** seeks special use exceptions to place an off-premise signs and an electronic message center off-premise sign (Sections 115-83.6, 115-83.7, 115-159.5, 115-161.1 & 115-210 of the Sussex County Zoning Code). The property is located on the southeast corner of Legion Road and John J. Williams Highway (Rt. 24). 911 Address: N/A. Zoning District: CR-1. Tax Parcel: 234-29.00-263.00

Mr. Whitehouse presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application and two mail returns. The Applicant is requesting approval for two billboards.

Steve Snyder and Steve Sarkady were sworn in to give testimony about the Application.

Mr. Snyder testified that he and his partner, Steve Sarkady from Legends Outdoor, will present the Application; that they propose to build one electronic message center and one static billboard on the property; that all criteria required by Sussex County is being followed regarding separation distance between signs, distance between properties, and dwellings; that DelDOT has approved the Application pending approval by Sussex County; that they are aware of pending road improvements and the site plan was based on DelDOT's plans; that one billboard will be a back-to-back electronic message center and will be located in the area identified as "Site A" on the site plan; that the static billboard will be located in the area identified as "Site B" on the site plan; that the signs will be owned by Legend Outdoor; that these signs will not substantially adversely affect the uses of neighboring or adjacent properties; that the electronic message center will not blink, flash, or have motion; that the message will be fixed on the electronic message center for 10 seconds; that the signs will not project any noise or smell; that the signs will not have an adverse impact on traffic; that both signs will be lit; that the electronic message center will have a timer to dim it based on the time of day and the static sign will be illuminated with a light shining on the sign; that the electronic sign can be programmed for public service messages such as amber alerts; and that there has been no opposition from neighbors.

Mr. Sarkady testified that they have checked with DelDOT regarding roadwork in the area and have planned the position of the signs based on the future roadwork and the right-of-way; that the electronic message center will dim down at dusk so that it is not intensely bright and will meet the automatic dimming requirements in the Code; that each sign will measure 25 ft. high; and that the messaging on the electronic message center will be fixed in regular intervals to meet the Code requirements.

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

Ms. Magee then closed the public hearing.

Dr. Carson moved to approve Case No. 12381 for the special use exceptions as such exceptions will not substantially affect adversely the uses of adjacent and neighboring properties.

Motion by Dr. Carson, seconded by Mr. Williamson, carried unanimously that the **special use exception be granted for the reasons stated**. Motion carried 5 – 0.

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

**Case No. 12428 – Sun Leisure Point Resort, LLC** seeks variances from the separation distance requirement for proposed structures (Section 155-172 of the Sussex County Zoning Code) The property is location on the southwest side of Diplomat Street, approximately 440 ft. southeast of Radie Kay Lane. 911 Address: N/A. Zoning District: AR-1. Tax Parcel: 234-24.00-39.02 and 39.06

Mr. Whitehouse presented the case and stated that the Office of Planning and Zoning received no correspondence in support of and three letters in opposition to the Application and one mail return. The Applicant is requesting a variance of 266 ft. and 55 ft. from the requirement that the expansion of the existing leisure point community be at least 400 ft. from any existing dwelling on property of other ownership.

Mr. David Hutt, Esquire, presented the Application on behalf of the Applicant, Sun Leisure Point Resort, LLC. Mr. George H. Harrison, Jr., Mr. Mark Davidson, Mr. Brian Styck, and Ms. Jackie Maguire were sworn in to give testimony about the Application.

Mr. Hutt stated that the Sun Leisure Point Resort community is a community of manufactured homes, recreational vehicles (RVs), and a marina located just off Long Neck Road; that the property under consideration is made up of two tax parcels; that each parcel is made up of four acres for a total of eight acres; that exhibit books have been submitted to the record; that the property is zoned AR-1 and neighboring parcels are also zoned AR-1; that the Applicant originally planned to have 64 RV sites on the property; that the Applicant originally sought a variance of 266 feet from the manufactured home owned by the Niblets and a variance of 55 feet from the home owned by the DiGirolano family; that the Applicant has reconfigured the site plan so that the request for the 55 ft. variance from the DiGirolano residence is no longer necessary; that the only variance being sought is the 266 ft. variance from the property owned by the heirs of Francis Niblett; that Leisure Point has been in existence since the 1960s; that Leisure Point was developed by George Harrison, Sr., prior to the enactment of the Sussex County Zoning Code; that Leisure Point is considered a pre-existing legally non-conforming manufactured home and RV resort community; that Leisure Point was originally developed for transient campers but, over time, it became a mixture of permanent manufactured home lots as well as RV sites; that, currently, the community consists of 211 manufactured home sites, 317 RV sites, and 305 boat slips in the marina; that Mr. Harrison worked in Leisure Point for many years; that the proposal is for recreational vehicle sites which would be open from April 15 to October 15 each year; that the property is currently vacant; that there is a Conditional Use Application before the Planning

and Zoning Commission for 64 RV sites on these eight acres; that the Conditional Use Application will also be heard before County Council; that, after the Conditional Use application was filed, the Applicant was informed that a variance from the separation distance requirement would also be necessary for this property; that, if the variance is approved, the Applicant will go before the Commission and Council and the public will have an opportunity comment at those hearings as well; that the Applicant will have to meet agency regulations such as the Fire Marshal, engineering, and DelDOT as part of the conditional use application process; that the 400 ft. separation distance requirement limits the developable area of the site; that the dwellings of other ownership within the 400 ft. separation distance are located off Diplomat Street and they access their properties through the gated entrance for the Sun Leisure Point Resort; that, with the change in the site plan, the Conditional Use request will be for 58 RV sites; that the Applicant has reduced its proposed RV capacity by 6; that the site will also be improved by a bathhouse, pool, and tot lot; that a privacy fence will be installed around the perimeter of the eight acres; that there will be a 50 ft. landscaped buffer from neighboring properties; that this area has developed into a manufactured home and RV resort area with 21 developments of a similar nature; that most of the property in this area is zoned AR-1; that there are no wetlands on the property; that this proposed use is consistent with the area and will have a positive financial impact on the area; that the site will use central water and sewer; that the park will be seasonal in use; that many of the residents will use golf carts within the community; that there will be no change in access to the property; that this property is unique as it is located adjacent to the pre-existing, non-conforming manufactured home park and has two dwellings of other ownership that access their properties through this site; that, in order to enable the reasonable use of this property, it is necessary for the expansion of the park onto this property; that the park will share its entrance with the existing manufactured home / RV park; that the exceptional practical difficulty was not created by the Applicant as the placement of the dwellings on adjacent properties is not within the Applicant's control; that the variance will not alter the essential character of the neighborhood as the surrounding area is primarily residential and consists of manufactured home / RV parks, single-family residential homes and farmland; that the homes on Diplomat Street were placed in 1987 after Leisure Point was already in existence; that the variance requested is the minimum variance possible for the Applicant's proposed use and the Applicant has revised the site plan to eliminate the 55 ft. variance but there is not a means of doing that for the 266 ft. variance; that the Harrison family owned the subject property and now it is owned by Sun Leisure Point Resort; and that the Applicant has submitted proposed findings of fact and conditions.

Mr. Harrison and Ms. Maguire affirmed the statements made by Mr. Hutt as true and correct.

Mr. Hutt stated that the property is not in a flood zone; and that the Applicant intends to allow RVs to remain on the site in the off-season.

Mr. Workman asked if there was a requirement that the RVs be removed in the off-season.

Mr. Sharp stated that there is no such requirement in the Code but the Board can condition its approval.

Mr. Hutt stated that the property is vacant but not farmed; that the Niblett property is located off Diplomat Road; and that there is no variance needed from homes located off Long Neck Road.

Mr. Davidson testified that the subject property was once owned by the Niblett family.

Mr. Hutt stated that the guard shack will be used for all of Leisure Point; that the fence will be around the rest of Leisure Point; that the only entrance is from Diplomat Street for Leisure Point; that the pool will be closed in the off-season; and that neighbors access their property through Diplomat Street.

Mr. Harrison testified that there is a pool in the existing section of the park and the patrons in the new area will also have a pool; that he expects that most people will use the pool nearest to their camper; that, in the RV section, the pools and water infrastructure are winterized after October 15 each year; that the manufactured home section is open year-round; that the guard shack is an electronic system and has not been an issue; that the additional RV sites should result in insignificant traffic on Diplomat Street; and that there is no back up of traffic at the guardhouse.

Mr. Davidson testified that the properties that are owned by the Niblett Heirs are less than 400 ft. from the existing manufactured home park and RV resort.

Mr. Hutt stated that the Applicant is limited by the Code but the Code cannot be the reason for the variance; that the neighboring homes, which were placed after Leisure Point was developed, have created the uniqueness; and that much of the existing Leisure Point is within 400 ft. of the Niblett property.

Joseph DiGirolano and Nancy DiGirolano were sworn in to give testimony in opposition to the Application.

Mr. DiGirolano testified that he objects to the meeting by teleconference as he would prefer to appear in person before the Board; that his mother did not receive notice of the meeting; and that he would like the hearing to be postponed until he can seek legal counsel.

Mr. Sharp stated that the meeting was properly noticed; that the meeting is being conducted under the authority of the Governor's guidelines; and that anyone opposing the Applicant can present his or her objections.

Mr. DiGirolano testified that there is a maintenance shed and a retaining pond that will back up to his mother's property and is within 400 ft. of his mother's property; that he is concerned that the RVs will remain on the lot when the season is over and cause issues when there are high winds; and that he is concerned the retaining pond will overflow.

Mr. Sharp stated that the retaining pond is not under the purview of this Board but could be addressed with the Planning and Zoning Commission when the Conditional Use Application is under consideration.

Mr. DiGirolano testified that his family has owned property on Long Neck Road for over 100 years with 3,000 ft. of undeveloped waterfront property; that his mother owns 10 acres on Dogwood Lane; that his mother gave easement rights for the entrance to Sun Leisure Point Park; that he has concerns about noise pollution, campfire smoke, crime, golf carts riding through the DiGirolano property, inability to sleep, and traffic jams at the guard hut; that he feels campgrounds are not residential uses; that the fence will not stop noise or keep people off their property; and that he opposes the Application.

Ms. DiGirolano testified that, of the 23 manufactured home parks and RV parks, only three are strictly RV parks.

Mr. Whitehouse confirmed that the meeting had been correctly noticed.

Marilyn Wilson was sworn in to give testimony in opposition to the Application.

Ms. Wilson testified that she is Joseph DiGirolano's life partner; that she is opposed to the variance request because 70 acres of family lands are being impacted by placing 58 RV sites with a retaining pond and a dog bathroom area that will produce fecal waste; that the DiGirolano property has a farmhouse and graveyard; that she believes the property was sold in August 2019; that she questions why Mr. Harrison is still involved in the project; and that she is a nurse.

Anthony DiGirolano was sworn in to give testimony in opposition to the Application.

Mr. DiGirolano testified that he is opposed to the variance request as he is concerned that it will affect his ability to manage the family farm and that he does not want many people close to his farm and livestock; and that he plans to retire to the farm.

Mildred Barnsworth was sworn in to give testimony in opposition to the Application.

Ms. Barnsworth testified that Leisure Point is a gated community; that she lives in the Sun Leisure Point community and had to pass a background check to live there; that her concern is whether the patrons of the new RV park also have to pass a background check; and that her home is not 400 ft. from the RV park.

James Russum was sworn in to give testimony in opposition to the Application.

Mr. Russum testified that he will be most affected if the variance is approved as his home will be 134 ft. away from the nearest RV; that it is difficult to enter his property currently and that there

will be additional traffic with the park expansion; that the park is a golf cart community which results in an enormous amount of traffic; that he had to ask for trees to be removed so that he could see in his lane; that the noise level and crime level will go up; and that it will limit his ability to develop his property if he has to meet the 400 ft. separation distance.

Mr. Hutt stated that, of the 21 manufactured home parks and RV resorts in the area, 4 are strictly RV parks; that a proposed fence will prevent patrons in golf carts from wandering onto neighboring properties; that the concerns about traffic building up at the guardhouse should not be an issue as historically this has not been an issue as campers are a part of the current Sun Leisure Community; that there is an online check-in process and the patrons will have a code to enter and therefore, traffic should not back up; that granting this variance would not prohibit Mr. Russum from developing his property in the future; that Leisure Point is not a year-round park; that utilities are cut off in the off-season; and that the park uses hurricane anchoring systems required by Code.

Mr. Workman reiterated that he was concerned about the long-term storage of RVs.

Mr. Harrison stated that, if a patron was renting year to year, that the empty RV could remain on the property over the winter but that patrons renting for one season would remove the RV at the end of the season.

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

Ms. Magee closed the public hearing.

Mr. Chorman moved to table the Application 12428 until the meeting on June 15, 2020.

Motion by Mr. Chorman, seconded by Mr. Williamson, carried unanimously that the **application be tabled to the June 15, 2020, meeting.** Motion carried 5 – 0.

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

**Case No. 12429 – Joann Teiken** seeks variances from the separation distance requirement between units for proposed structures (Sections 115-42, 115-172 and 115-185 of the Sussex County Zoning Code). The property is located on the north side of Dove Road within the Bayshore manufactured home park. 911 Address: 38015 Dove Road, Ocean View. Zoning District: GR. Tax Parcel: 134-9.00-94.01-13051

Mr. Whitehouse presented 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 six mail returns. The Applicant is requesting a 5.1 linear ft. variance from the 20' separation distance for a proposed deck to the side

of the manufactured home on the lot located to the west of the property.

Ms. Joann Teiken was sworn in to give testimony about the Application.

Ms. Teiken testified that she is requesting a variance from the separation distance requirement; that the proposed deck will measure 8 feet by 12 feet; that she is 74 years old; that she purchased the home in 2004; that she needs better access to her home; that she also would like to have better outdoor space; that she cannot build the deck without a variance; that the variance requested is the minimum variance request to afford relief; that the variance will not alter the essential character of the neighborhood as 31 of the 45 lots in the neighborhood have decks; that the manufactured home is a 1978 model and was moved to the site in 1979; that her neighbor's manufactured home was installed prior to her ownership; that the park was created in 1966 and predates the Sussex County Zoning Code; that the manufactured home is 14 feet wide; that the neighbor has a 12 foot wide manufactured home; that the property is unique as her home is 5 ft. from the property line on the east side but her neighbor on the west is only 2 ft. from the property line causing the need for this variance; that, when the Applicant bought the home, it was in its current placement; that the steps to the deck will project towards Dove Road and will be 4 feet wide; and that the HVAC is located on the other side of the house.

During testimony, information was provided that an additional variance of 1.1 ft. from the 20 ft. separation distance for the steps is also required.

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

Ms. Magee then closed the public hearing.

Dr. Carson moved to approve Case No. 12429 for two variances as the property is unique; that it cannot be developed in strict conformity with County Code; that granting the variances will not affect the essential character of the neighborhood, and that the variances are the minimum variance requests to afford relief.

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

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

**Case No. 12430 – Garth & Madeline Troescher** request a Special Use Exception to operate a Bed and Breakfast (Sections 115-23 and 115-210 of the Sussex County Zoning Code). The property is located on the southeast side of Dirickson Creek Road, approximately 0.59 mile east of Millers Neck Road. 911 Address: 37428 Dirickson Creek Road, Frankford. Zoning District: AR-1. Tax Parcel: 134-21.00-20.02



Mr. Whitehouse presented the case and stated that the Office of Planning and Zoning received two letters in support of and eight in opposition to the Application and zero mail returns. The Applicant is requesting a special use exception to operate a bed and breakfast for all six bedrooms of the house. Mr. Whitehouse stated that there was a Conditional Use application previously to operate an event venue at this location which was withdrawn by the Applicants and did not proceed to decision.

Madeline Troescher and Garth Troescher were sworn in to give testimony about the Application.

Ms. Troescher testified that the Applicants seek to operate a bed and breakfast; that her husband owns a construction business which has some downtime during the year; that the business drops 40% during the summer; that she would have to run a bed and breakfast to supplement the family income; that the bed and breakfast would be used year-round; that neighbors have intimidated her to deter her plans; that one neighbor put a “for sale” sign on the Applicants’ property; that they are no longer planning to use the site for a wedding venue but would like to rent out bedrooms; that the use will not disturb neighbors; that the property is well-maintained; that she would be on the site when the bed and breakfast is in use; that four bedrooms could be rented for a total of eight people; that there are four other businesses on the road, including a bed and breakfast inn known as the Inn at Dirickson Creek; that there is adequate parking on site; that some of the bedrooms are first floor handicapped accessible; that there are no cooking facilities in the bedrooms; that the Applicants will provide breakfast to their clients; that a small, wooden, unlit sign would be requested for the use; that the request would not adversely affect the uses of neighboring and adjacent properties; and that there is a pond and gazebo in their yard.

Mr. Troescher testified that there is no intention to use the site for commercial parties; that there will be a family wedding but that is not a commercial venture; that the house will not be used as a party house; that, from the corner of his house to the neighboring dwelling, is approximately 700 ft.; and that the owners will be on the premises with the guests.

Fred Townsend, Esquire, appeared in opposition to the Application on behalf of his clients Tom Bonsack and Kelly Bonsack.

Mr. Townsend stated that the Bonsacks own the property to the left of the site; that Dirickson Creek Road neighborhood is a quiet, unique area which is secluded; that the property is on a dead end road that is unlit and is not equipped for patron traffic and delivery trucks; that food and supplies alone will result in additional traffic; that, although this property is over 3 acres, it is not well buffered from the neighbors; that he expects guests to be on the deck and the noise will create a disruption for neighbors; that, if this was a more urban area, the bed and breakfast inn would be more appropriate; that the neighbors who support the Application are not full-time residents; that sound will travel easily over the water; that the bed and breakfast in the area is farther off the road and is buffered in the rear

by trees; that some in the neighborhood object to that bed and breakfast inn as well; that the Applicants' house is exceedingly large; that the use will substantially adversely affect the uses of neighboring and adjacent properties; that the Board should consider the geography and the proximity of the deck to neighboring properties; that the Applicants have not met their burden of proof; and that, if the Board were to approve the request, a limitation on the number of rooms should be imposed.

Tom Bonsack was sworn in to give testimony in opposition to the Application.

Mr. Bonsack affirmed the statements made by Mr. Townsend as true and correct. Mr. Bonsack testified that he owns the adjacent property and constructed his house in 2007; that the Applicants' house is lovely but the patio and deck are a large part of the Applicants' property; that patrons of the bed and breakfast would spend time on the outside deck; that water amplifies sound and he can hear ordinary conversations; that traffic and parking will be an issue but the noise is the bigger issue; that the noise problem is substantial; that he expects the inn to be booked regularly; and that most neighbors oppose the request.

Patrick Welch was sworn in to give testimony in opposition to the Application.

Mr. Welch testified that he is opposed to the Application because there is a lot of foot traffic and bicycle traffic and, if there is more vehicle traffic, it will create problems; that he lives nearby; that traffic has increased due to the Estuary subdivision nearby; that the patrons of the bed and breakfast will gather on the deck and the noise will travel across the water; that he is concerned that patrons will meet friends at the patio as well; and that, if it is approved, he would like the neighbors to be informed about the restrictions for the bed and breakfast.

Ms. Troeschler testified that she has no ulterior motives; that neighbors have guests at their homes as well; that many neighbors are part-time residents; and that she will be a good neighbor.

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

Ms. Magee then closed the public hearing.

Mr. Workman moved to deny Case No. 12430 for the special use exception as it out of character of the neighborhood.

Motion by Mr. Workman, seconded by Mr. Chorman, carried that the **special use exception be denied for the reasons stated**. Motion carried 3 – 2.

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

**Case No. 12431 – Sarah Peterson** seeks a special use exception for a garage studio apartment (Sections 115-23 and 115-210 of the Sussex County Zoning Code). The property is located on the northwest side of Morning Glory Road, approximately 0.33 mile northwest of Portsville Road. 911 Address 8982 Morning Glory Farms Road, Laurel. Zoning District: AR-1. Tax Parcel: 432-3.00-41.06.

Mr. Whitehouse presented the case and stated that the Office of Planning and Zoning received no correspondence in support of and one letter in opposition to the Application and zero mail return. The Applicant is requesting a special use exception for an existing garage studio apartment in a 730 sf. garage, which has been in use for 18 years.

Mr. Whitehouse stated that the item before the Board tonight is the garage studio apartment; that the apartment is in the garage located on the property; and that there are other buildings on the parcel with violations and those issues may come before the Board of Adjustment as a later date.

Sarah Peterson was sworn in to give testimony about the Application.

Ms. Peterson testified that she is requesting a special use exception for a garage / studio apartment; that the apartment has been on the property for 18 years; that it is currently occupied; that she lived there while her house was built; that the house and the apartment both have stoves; that she rented out the apartment after the house was constructed; that the apartment sleeps up to four people; that her house is 50 feet away; that two sides of the property is bordered by water; that the nearest dwelling is approximately ½ mile from this lot; that the survey discovered the building error; that the structure was constructed by her ex-husband; that the garage consists of 1,700 square feet but the apartment is only 800 square feet; that there have been no complaints regarding the apartment; that adjacent lands are used for agriculture; that she is a cosmetologist; that there is a designated parking area on site for the tenant; and that the garage / studio apartment will not substantially adversely affect the uses of neighboring and adjacent properties.

Mr. Whitehouse noted that this application came before the Board because there was an objection lodged by a neighbor.

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

Ms. Magee then closed the public hearing.

Dr. Carson moved to approve Case No. 12431 for the special use exception as it will not substantially adversely affect the uses of neighboring and adjacent properties.

Motion by Dr. Carson, seconded by Mr. Williamson, carried unanimously that the **special use exception be granted for the reasons stated**. Motion carried 5 – 0.

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

**Case No. 12432 – Barbara Walker** seeks a variance from the front yard setback requirement for an existing dwelling (Sections 115-25 and 115-182 of the Sussex County Zoning Code). The property is located on the southwest corner of White Oak Road within the Rehoboth Beach Yacht and Country Club subdivision. 911 Address: 30 White Oak Road, Rehoboth Beach. Zoning District: AR-1. Tax Parcel: 334-19.00-73.00

Mr. Torrance 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 4.5 ft. variance from the 30 ft. front yard setback requirement for an existing dwelling. Mr. Torrance stated that a variance of 5 ft. was granted by the Board on December 21, 1982.

Mr. Sharp stated that the variance was approved in 1982 and a permit was issued to build the dwelling but, since no Certificate of Occupancy was issued, there are no documents to show that the house was completed before the expiration of the original variance.

Barbara Walker and Adam Linder were sworn in to give testimony about the Application.

Mr. Linder testified that the Applicant, Ms. Walker, wishes to sell the home; that she was unaware of any violations until the property was surveyed; that the Rehoboth Beach Yacht and Country Club subdivision had a 25 ft. setback; that the dwelling has been on the property since 1982/83 and has had no complaints; that the dwelling is in character with the neighborhood; and that a variance is being requested.

Ms. Walker testified that she inherited the property two years ago and that the property was built by the McCauleys who were the original owners and who lived in the home for 37 years; that the prior owners lived in Egypt for approximately 1 year after the house was built; that other lots in the neighborhood are square or rectangular; that there have been no complaints about the location of the house; and that there is no gap between the edge of paving and the property line.

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

Ms. Magee then closed the public hearing.

Mr. Chorman moved to approve Case No. 12432 for the variance as the property is unique as it is on a curve; that it cannot be developed without the variance; that granting the variance will not affect the essential character of the neighborhood, and that the variance is the minimum variance request to afford relief and the least modification of the regulation.

Motion by Mr. Chorman, seconded by Mr. Williamson, carried unanimously that the **variance be granted for the reasons stated.** Motion carried 5 – 0.

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

**Case No. 12433 – Donna M. Sulecki & Brenda L. Blackburn** seek variances from the front yard setback and side yard setback requirements for existing structures (Sections 115-41, 115-182, 115-183 and 115-185 of the Sussex County Zoning Code). The property is located on the northeast side of Rose Lane within the Orchard Manor subdivision. 911 Address: 28337 Rose Lane, Millsboro. Zoning District: GR. Tax Parcel: 234-34.08-28.00

Mr. Torrance presented the case and stated that the Office of Planning and Zoning received no correspondence in support of and one letter in opposition to the Application and two mail returns. The Applicant is requesting a variance of 23.6 ft. variance from the required 30 ft. front yard setback requirement for an existing carport and a variance of 3.4 feet from the 5 feet side yard setback requirement on the northeast side for an existing shed.

Donna Sulecki and Brenda Blackburn were sworn in to give testimony about the Application.

Ms. Sulecki testified that a variance is being requested for the carport in the front yard setback for the storage of vehicles and boat; that the property is unique as there are 4 sheds in the rear and there was no other area on the lot to place the carport; that the rear yard is fenced; that the sidewalk would not allow them to move the carport farther back; that you can see through the carport; that the contractor, Delway Construction, pulled the permit and the Applicants were not aware of the 30 ft. property setback line; that it will not alter the essential character of the neighborhood as it will not obstruct lines of vision and there are other carports in the area; that it is a minimum variance to allow the carport to remain in its current location; and that it was installed last summer.

Mr. Torrance stated that the building permit was issued on November 26, 2019.

Ms. Blackburn testified that the carport is secured to the ground with 3 ft. metal rods down into the grass on either side of the driveway; that she does not have a cost of removing sections of the carport; that she has contacted the carport installation company about cutting it down and rebuilding it; that there is approximately 20 ft. between the front property line and the edge of paving; that there is no well or septic on the property; that two neighbors have complained to other residents on the block about the carport; that the carport does not block visibility; that the shed / outhouse in the rear of the property will be brought into compliance; and that they are only seeking a variance for the carport.

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

Dr. Carson moved to leave the Public Hearing open for the limited purpose to have the builder appear to answer questions until the meeting on July 6, 2020, and he requested that the builder be subpoenaed to appear at the hearing.

Motion by Dr. Carson, seconded by Mr. Workman, carried unanimously that the **public hearing be left open for the limited purpose of hearing from the contractor at the July 6, 2020, meeting.** Motion carried 5 – 0.

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

### **ADDITIONAL BUSINESS**

Mr. Whitehouse asked if the Board members would like additional training on using adobe for the Board packets. The consensus is to have additional training.

**Meeting adjourned at 10:23 p.m.**