

MINUTES OF JUNE 21, 2021

The regular meeting of the Sussex County Board of Adjustment was held on Monday, June 21, 2021, at 6:30 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 6:30 p.m. with Chairman John Williamson presiding. The Board members present were: Dr. Kevin Carson, Mr. Jeff Chorman, Mr. John T. Hastings, Mr. Jordan Warfel, and Mr. John Williamson. Also, in attendance were Mr. James Sharp, Esquire – Assistant County Attorney, Mr. Vincent Robertson, Esquire – Assistant County Attorney, and staff members Ms. Jennifer Norwood – Planning and Zoning Manager, and Ms. Ann Lepore – Recording Secretary.

The Pledge of Allegiance was led by Mr. Williamson.

Motion by Mr. Chorman, seconded by Dr. Carson and carried unanimously to approve the agenda. 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. Hastings, seconded by Dr. Carson and carried unanimously to approve the Minutes for the meeting of April 19, 2021. Motion carried 4– 0.

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

Motion by Dr. Carson, seconded by Mr. Hastings and carried to approve the Findings of Facts for the meeting of April 19, 2021. Motion carried 4 – 0.

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

OLD BUSINESS

Case No. 12538 – Marc Forman seeks variances from the side 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 east side of Reynolds Road approximately 807 ft. northwest of Zion Church Road. 911 Address: 12921 Reynolds Road, Milton. Zoning District: AR-1. Tax Parcel: 235-8.00-18.00

Ms. Norwood presented the Application, which had been left open at the Board's meeting on

April 12, 2021, for the limited purpose of allowing the Applicant to submit a proposed site plan. A revised site plan dated May 4, 2021, was submitted and circulated to the Board.

Mr. Sharp asked Ms. Norwood to confirm that the variances being requested are 2.3 ft. and 4.3 ft. from the 10 ft. side yard requirement on the north side for the proposed addition.

Mr. Sharp stated that the Applicant submitted the proposed site plan within 60 days and complied with that request from the Board.

Mr. Hastings moved to approve Case No. 12538 for the requested variances for the following reasons:

1. The property has unique conditions as the property is not square and is angled;
2. The variances will not alter the essential character of the neighborhood; and
3. The variances represent the minimum variances necessary to afford relief.

Motion by Mr. Hastings, seconded by Mr. Chorman, carried that the **variances be granted for the reasons stated**. Motion carried 3 – 1.

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

PUBLIC HEARINGS

Case No. 12571 – ADBM Holdings, LLC seek a variance from the front yard setback requirement for a proposed structure (Sections 115-82 and 115-182 of the Sussex County Zoning Code). The property is located on the southwest side of DuPont Boulevard (Rt. 113) at the intersection of North Oak Drive. 911 Address: 28362 DuPont Boulevard, Millsboro. Zoning District: C-1. Tax Parcel: 133-16.00-105.00 & 105.01

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 one mail return. The Applicant is requesting a 3 ft. variance from the 60 ft. front yard setback requirement for a proposed addition.

Mr. Sharp recused himself and left Chambers. Mr. Robertson was present for this case.

Mr. Chris Shaffner was sworn in to give testimony about the Application.

Mr. Shaffner testified that Chrysler is changing their dealerships and that Chrysler wants the Applicant to build a Jeep dealership; that the Applicant has the building which was previously used as the Millsboro Auto Mart; that the existing building was built to meet the exact setbacks of 60 feet;

that, to meet the requirements from Chrysler, a new façade of aluminum composite material must be placed on the building and will require a 3 ft. variance; and that there will not be additional lighting installed.

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

Mr. Warfel moved to approve Case No. 12571 for the requested variance for the following reasons:

1. The property has unique conditions due to the location of the existing building;
2. That, due to the physical conditions, the property cannot be developed in strict conformity with the 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 Applicant;
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. Warfel, seconded by Mr. Chorman, carried unanimously that the **variance be granted for the reasons stated.** Motion carried 5 – 0.

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

Mr. Sharp returned to Chambers and Mr. Robertson left.

Case No. 12572 – Frank & Laura Taylor seek a variance from the maximum fence height requirement for an existing fence. (Sections 115-42, 115-182, and 115-185 of the Sussex County Zoning Code). The property is located on the southeast side of Adams Avenue approximately 110 feet southwest of South Bay Shore Drive in Broadkill Beach. 911 Address: 102 Adams Avenue, Milton. Zoning District: GR. Tax Parcel: 235-4.17-6.00

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received four letters in support of and two letters in opposition to the Application and one zero returns. The Applicant is requesting a variance of 1.5 ft. from the 3.5 ft. maximum fence height requirement for an existing fence. Ms. Norwood noted that the County issued a certificate of compliance for the fence on March 30, 2020.

Ms. Laura Taylor was sworn in to give testimony about her Application.

Ms. Taylor testified that she and her husband had a fence installed at 102 Adams Avenue by Backyard Works in February 2020; that a permit was obtained by the Contractor and it was approved by the County but she later received a notice of violation; that the house faces Bayshore Drive but is

80 feet from Bayshore Drive; that Adams Avenue provides access to the lot; that, when the fence company installed the fence, they considered Bay Shore Drive as being the front of the property and thought that the fence was in compliance with side yard zoning requirements; that the back of the lot is unbuildable as it is on the marsh; that the fence is located at the end of Adams Avenue and is at issue; that the fence is at the edge of the marsh; that there is a dock in the rear yard; that members of the public were crossing the subject property to access the water with canoes; that “no trespasser” signs are not on the property; that the fence blocks the view of the marsh from the public and that prevents the public from entering her property; that the home was purchased in 1982 and the marsh in 1998; that the property is unique because of the “L” shape; that there was an old post and rail wooden fence prior to the placement of the new fence; that a 3.5 foot tall fence could work; that she has only seen one trespasser since the fence was erected and that was a local worker; that there is a Ring doorbell camera at this location on the property; that a 5 ft. fence will block the view more than a 3.5 ft. fence; and that neighbors have views of the marsh from their decks.

Ms. Brenda Erdman and Mr. Alan Erdman were sworn in to give testimony in opposition to the Application.

Ms. Erdman submitted exhibits to the record.

Ms. Erdman testified that her parents bought their lot in 1966 and 1971; that she lives there from April to October; that the prior split-rail fence was able to be seen through but the new fence is solid white; that the fence is an unsafe condition for her and her family as she cannot see behind the fence; that she has a disabled daughter who is under 5 feet tall; that there is an alarm and light on the fence; that the alarm has gone off at 10:30 pm; that she lets her dogs out at night and cannot see where they go; that trespassing is not a constant thing but there have been approximately five people over the years who she has witnessed using the Applicant’s dock; that she tells others not to use the dock; that her husband is a builder from Pennsylvania; and that the 5 ft. fence violates the Sussex County Zoning Code.

Mr. Erdman testified that the fence is also on the front of their property as the properties have a shared property line; that the fence runs perpendicular to his property line; that he has concerns for the safety of his wife when she is outdoors after dark as they cannot see behind the fence; that he believes the fence is a spite fence; that the gate to the fence swings open to the road; that a 3.5 ft. fence with a no trespassing sign would suffice to keep trespassers off the Taylor property; that the complaint was made in October and the Applicant did not submit the variance application until April; that the fence is partially on his property; that he had to show inspectors how to do their job; and that there are no similar fences in the neighborhood.

Ms. Taylor testified that the neighbor’s dogs have run onto her property; that the gate swings open to the marsh; that Mr. Erdman spray painted the old fence in the past; that the cameras are monitored by her son for the safety of her and her husband; and that the new fence is generally in the same location as the previous fence.

Mr. Sharp explained how the front yard height requirement is calculated; that the Director could not grant an administrative variance; and that the notice of violation was issued.

Ms. Taylor testified that she does not speak with her neighbors; and that she tried to have Bill Schab represent them.

Mr. Sharp stated that the Board cannot grant relief for the portion of the fence that encroaches onto the neighboring property as that relief can only be granted by the Court of Chancery.

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

There were no callers by teleconference in support of or in opposition to the Application.

Mr. Chorman moved to deny Case No. 12572 for the requested variance for the following reasons:

1. The property does not have unique physical conditions which have created an exceptional practical difficulty for the Applicant;
2. That he believes a fence that meets the Code requirements is tall enough to prevent trespassers; and
3. The exceptional practical difficulty has been created by the Applicant;

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

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

Case No. 12573 – Eugenia Castrejon seeks a special use exception to operate a daycare center (Sections 115-23 and 115-210 of the Sussex County Zoning Code). The property is located on the west side of Sanfilippo Road approximately 0.21 mile north of Swan Lane. 911 Address: 20734 Sanfilippo Road, Bridgeville. Zoning District: AR-1. Tax Parcel: 331-2.00-40.00

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.

Ms. Eugenia Castrejon and Ms. Ruby Castrejon were sworn in to give testimony about their Application.

Ms. Ruby Castrejon testified that they began the process to open a home daycare in 2020;

that, due to the Covid-19 pandemic, they did not move forward but have since restarted the process; that they have approval from the Fire Marshal for a Level 1 daycare center; that the approval is for 12 children; that there will be three employees including her, her mother, and one substitute teacher; that there is adequate parking; that there is a separate entrance for the chicken houses; that there is one neighbor across the road but the next nearest neighbor is approximately 0.5 miles away; that the hours of operation will be 6:30 am through 5:00 pm; that the use will not produce much traffic; and that this use will not substantially adversely affect the uses of neighboring and adjacent properties.

Ms. Eugenia Castrejon testified that there is a circular driveway for drop off and pick up; that there will be a fenced outdoor playground for the children; that there is very little traffic on Sanfilippo Road; that the neighbors are in support of the Application; and that they have applied for Childcare Licensing with Delaware State but are waiting on the results of this application.

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

Mr. Williamson closed the public hearing.

Dr. Carson moved to approve Case No. 12573, pending final written decision, for the requested special use exception for a daycare business as the request will not substantially adversely affect the uses of neighboring and adjacent properties.

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

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

Case No. 12574 – T. Patrick & Eileen Cannon seek variances from the front yard setback and maximum fence height requirements for proposed structures (Sections 115-34, 115-182, and 115-185 of the Sussex County Zoning Code). The property is located on the southwest side of London Circle South within the Rehoboth Beach Yacht and County Club Subdivision. 911 Address: 117 London Circle South, Rehoboth Beach. Zoning District: MR. Tax Parcel: 334-19.00-495.00

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 Applicants are requesting a 3 ft. variance from the 30 ft. front yard setback requirement for a proposed pool house and a 0.5 ft. from the 3.5 ft. maximum fence height requirement for an existing fence.

Mr. Thomas Patrick Cannon and Ms. Eileen Cannon were sworn in to give testimony about their Application.

Mr. Cannon testified that the majority of the property is wetlands; that a permit was issued for

a pool to be installed in compliance with the DNREC setback requirements from the wetlands; that there was a question as to the location of the wetlands and that question led to the pool being moved; that the pool is located in the side yard; that the property becomes narrower as it gets closer to the street; that the size of the pool and pool house were limited due to the setback requirements; that the Applicants could not meet the 30 ft. setback from the right-of-way; that the cul-de-sac circle also impairs on the ability to meet setback requirements and created a very unique situation; that the Applicants worked with an engineer and built the smallest pool house possible; that, due to prevailing winds, they could not make the pool house too small; that the front property line curves; that the homeowners association has approved the request; that the fence provides a safety buffer; that there is effectively no rear yard due to the wetlands; that the fence is iron; and that there are deer in the area.

Ms. Cannon testified that a 4 ft. fence is required around a pool and it was installed; that, within the front yard setback, per County Code, a fence may only be 3.5 ft. so they request is for 0.5 ft. variance for safety; that neighbors support the request; that the pool house will measure 8 feet by 18 feet with a 4 foot overhang; that the pool house will be 40 feet from the edge of paving of the road; that the property is within a floodzone; that they have not experienced any flooding; that the pool house will be elevated; that two-thirds of the lot is considered wetlands; that the pool house will match the house; and that the fence is mainly for code compliance.

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

Dr. Carson moved to approve Case No. 12574 for the requested variances 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. Chorman, carried unanimously that the **variances be granted for the reasons stated.** Motion carried 5 – 0.

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

Case No. 12575 – Hometown Village of Cool Branch, LLC seeks variances from the rear yard setback requirements for existing structures (Sections 115-42, 115-172, 115-183, and 115-185 of the Sussex County Zoning Code). The property is located on the east side of Hitch Pond Circle within the Cool Branch Manufactured Home Park. 911 Address: 100 Hitch Pond Circle, Seaford. Zoning District: GR. Tax Parcel: 132-8.00-1.00

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 three mail returns. The Applicant is requesting the following variances:

1. 6.1-ft from 10-ft rear setback requirement for an existing HVAC;
2. 2.1-ft var from 10-ft rear setback requirement for existing manufactured home;
3. 2.4-ft from 10-ft rear setback requirement for an existing manufactured home, steps, and landing.

Ms. Michaelena Hayes was sworn in to give testimony about the Application.

Ms. Hayes testified that she is the agent for the Applicant, Hometown Village of Cool Branch, LLC; that the Applicant is also available by teleconference if necessary; that this is a manufactured home community; that community has changed ownership; that the subject property had a manufactured home which has been in place since approximately 1996 and has functioned as a sales office and community office; that the structure deteriorated over the years and the new owners replaced the manufactured home; that the Applicant received a special use exception to have a sales office on that lot and proposed to meet setback requirements; that, initially, there were proposed steps for the rear of the building; that the uniqueness of the property is that it is a corner lot adjacent to three roads; that there are 10 ft. setbacks but along Fire Tower Road, there is a 50-ft. buffer; that there is a history of ambiguity with the property boundary for this site; that there have been surveying errors along that lot line of up to 4 feet; that there were issues when siting the new manufactured home; that the contractor who placed the manufactured home measured from the utility poles, which are closer to Fire Tower Road than the property line; that they cannot find the monument to measure the boundary; that the office is existing and would need to be moved to meet the setbacks and that would be costly to the owner; that contractor attempted to place the office as required and the distance was not met by approximately 2.4 ft.; that granting the variances will not alter the character of the neighborhood as the home aligns well with the rear of the other homes on this street; that there is a 50-foot buffer between the lot and the right-of-way; that the variances are the minimum sought to allow the manufactured home to remain in the current location; that the Applicant revised its application to the Fire Marshal to remove the rear steps and received approval to remove the rear steps so that no steps project out; that the sheds have been removed; that the variances are necessary to enable reasonable use of the property; that the buffer area is owned by the Community and it is a landscaped berm; and that there is another 20 feet between the buffer area and the edge of pavement.

Mr. Jerry Brainard was sworn in to give testimony in support of the Application.

Mr. Brainard stated that initially he was opposed to the variance; that, following a conversation with the presenter, he wishes to express his support for the Application

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

Mr. Warfel moved to approve Case No. 12575 for the requested variances for the following reasons:

1. The property has unique conditions with the three surrounding roads and the ambiguity of the property that causes the practical difficulty;
2. That, due to the physical conditions, the property cannot be developed in strict conformity 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 Mr. Hastings, carried unanimously that the **variances be granted for the reasons stated**. Motion carried 5 – 0.

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

Case No. 12576 – Logan Galbreath seeks a variance from the front yard setback requirement for a proposed structure (Sections 115-42, 115-182, and 115-185 of the Sussex County Zoning Code). The property is located on the northeast side of Smith Drive within the Banksville Park Subdivision. 911 Address: 35438 Smith Drive, Ocean View. Zoning District: GR. Tax Parcel: 134-12.00-1260.00

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 three mail returns. The Applicant is requesting a 20-ft. variance from the required 30-ft. front yard setback requirement for a proposed detached pole building.

Ms. Logan Galbreath was sworn in to give testimony about her Application.

Ms. Galbreath submitted additional exhibits of support to her Application.

Ms. Galbreath testified that she is applying for a front yard variance to place a pole-barn style garage on her property; that she purchased the property approximately one year ago and the dwelling was existing in its current location at that time; that the garage will be built to match the peak of the existing house; that, due to the shape and placement of the house, it is impossible to add on to the garage to meet the current setbacks; that the garage cannot be placed in the rear yard as there is a propane tank and a well in the rear of the property; that the propane tank is located to the right of the house and in front of the existing shed; that the shed will be removed; that a smaller garage would not work as the Applicants have a bus, three cars, and a motorcycle; that the pole building will help keep the yard clean; that neighbors support the request; that she operates a boutique on wheels; that the drawing provided to the Board is to scale; that granting the variance will not create any visibility issues; that homeowners association approval is not required; that the development is small and there is not a lot of traffic on Smith Drive; that she looked at turning the garage; that there is approximately 10 feet between the property line and the edge of paving; and that the garage will be 20 feet from the road.

Ms. Marie McGraw was sworn in to give testimony in support of the Application.

Ms. McGraw testified that she lives directly across the street from the subject property; that granting the variance will not create visibility issues; that there are only 9 houses on Smith Drive; and that granting the variance will not deter from the character of the neighborhood.

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

Mr. Chorman moved to approve Case No. 12576 for the requested variance, pending final written decision, for the following reasons:

1. The property has unique conditions because of the placement of the well, septic, and propane tanks;
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.

Motion by Mr. Chorman, seconded by Mr. Warfel, carried that the **variance be granted for the reasons stated**. Motion carried 3 – 2.

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

Case No. 12577 – Woodlands Development, LLC seeks a variance from the front yard setback requirement for a proposed structure (Sections 115-25 and 115-182 of the Sussex County Zoning Code). The property is located on the north side of Yiana Drive within The Woodlands Subdivision. 911 Address: 34165 Yiana Drive, Frankford. Zoning District: AR-1. Tax Parcel: 134-19.00-429.00

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 an 8.47 ft. variance from the 25 ft. front yard setback requirement for a proposed dwelling.

Ms. Cynthia McAuliffe and Mr. Bryan Elliott were sworn in to give testimony about the Application.

Mr. Elliott testified that that this is the last undeveloped lot in this community; that the purchaser is an elderly couple who wish to be nearer to their son; that the property is unique as it is a small odd-shaped lot located on a cul-de-sac; that the building envelope is irregular and restrictive with no uniformity; that the variance is necessary to allow a reasonable use of the property due to the

unique circumstances of the shape of the lot; that the exceptional practical difficulty was not created by the Applicants as they did not create the lot; that the variance will not alter the essential character of the neighborhood but rather enhance the development; that the variance requested is the minimum variance to afford relief and allow for a very small footprint which will match the existing homes in the development; that the only way a house would fit within the building envelope would be to create a custom home that would look out of character for the neighborhood; that all homes in the neighborhood have been constructed by Insight Homes; that there is no smaller model home available; that there are two front yard setbacks on the lot; that the setback extends beyond the cul-de-sac along Yianna Drive to the next property; that the only variance required is for the front yard setback; that the lot consists of 8,038 square feet; that there is a gap between the property line and the edge of paving which is typically 10 feet; that this encroachment will not create visibility issues on the cul-de-sac; that no rear yard variance will be needed; that the home will be a two-story home consisting of approximately 1,500 square feet; and that homeowner association approval is not required.

Ms. Norwood stated that the lot is in a cluster subdivision so the small lot ordinance does not apply.

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

Mr. Hastings moved to approve Case No. 12577 for the requested variance for the following reasons:

1. The property has unique conditions due to the location and the cul-de-sac and the extended front yard setback;
2. That, due to the physical conditions, the property cannot be developed in strict conformity and the variance is necessary to enable the reasonable use of the property;
3. The exceptional practical difficulty was not created by the Applicant; and
4. The variance represents the minimum variance necessary to afford relief.

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

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

Mr. Chorman recused himself from the next Application and left the dais.

Case No. 12578 – Jeff & Molly Chorman seek variances from the front yard setback requirements for proposed structures (Sections 115-34, 115-182, and 115-185 of the Sussex County Zoning Code). The property is located on the northwest side of Alabama Drive approximately 428 feet northeast of North Bayshore Drive in Broadkill Beach. 911 Address: 4 Alabama Avenue, Milton. Zoning District: MR. Tax Parcel: 235-3.12-106.00

Ms. Norwood 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 one mail return. The Applicants are requesting the following variances 21 ft. from 30-ft. front yard setback requirement for proposed dwelling and deck and 25ft. from 30-ft. front yard setback requirement for proposed steps.

Ms. Molly Chorman and Mr. Kris Connelly were sworn in to give testimony about the Application.

Mr. Connelly stated that he is representing the Applicants, Mr. & Mrs. Chorman; that the Applicants own a bayfront property on Broadkill Beach; that the properties in this area were created in 1969 before the County, State, or Federal rules; that the Applicants are seeking to replace the existing dwelling after first trying to renovate the existing dwelling; that the property is in the VE flood zone and that, in order to renovate more than 50% of the existing dwelling, the home would have to be elevated; that the DNREC beach preservation line runs through the property and restricts where a house can be built; that the Applicants had to obtain approval from DNREC to build this proposed home; that the house will consist of multiple stories and will meet the County's height limitation; that this is a case of an exceptional practical difficulty for the Applicants; that the property is a shallow lot and it has an easement access through this property for the adjacent property to the northwest; that Alabama Avenue is a dead end street; that Lot 105 has an easement over this property as well; that the placement of the septic on the west side of the lot also affects the need for a variance; that, in 2016, DNREC completed a dune replenishment project so the water is now 100 yards farther away; that the plans for the dwelling are FEMA compliant, County Building Code compliant and DNREC compliant; that the property is unique; that the exceptional practical difficulty was not created by the Applicants as they purchased the property in 2015; that the existing cottage has structural deficiencies and will not accommodate their family; that the home cannot be renovated; that the variances are necessary to enable reasonable use of the property; that granting the variances will not alter the essential character of the neighborhood and are the minimum variances to afford relief; that a new septic system was installed in 2015 and a new septic system is not needed; that the dwelling will be within the height limits per Sussex County Code and will be on pilings; that the HVAC unit will meet the setback requirements; that the house will not be any closer to Alabama Avenue than the existing house and the steps will not be any closer to Alabama Avenue than the existing shower; that granting the variances will not create visibility issues on Alabama Avenue but will make it easier for people to get to the beach as the Applicants will be able to park underneath the new dwelling and will not have to park on the street; and that almost the entire property is within the DNREC building restriction line.

Ms. Chorman testified that the septic system was designed for three bedrooms and that the dwelling will be a three-bedroom house

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

Dr. Carson moved to approve Case No. 12578 for the requested variances for the following reasons:

1. The property has unique physical conditions;
2. The variances will not alter the essential character of the neighborhood; and
3. The variances represent the minimum variances necessary to afford relief.

Motion by Dr. Carson, seconded by Mr. Hastings, carried unanimously 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.

ADDITIONAL BUSINESS

Mr. Sharp reminded Board members that the next meeting will begin at 6:00 pm and that the annual reorganization will take place at that meeting.

Meeting adjourned at 8:42 p.m.