

## **MINUTES OF MARCH 1, 2021**

The regular meeting of the Sussex County Board of Adjustment was held on Monday, March 1, 2021, at 6:00 p.m. in the County Council Chamber, Sussex County Administration Office Building, Georgetown, Delaware.

The meeting was called to order at 6:00 p.m. with Chairman Chair John Williamson presiding. The Board members present were: Dr. Kevin Carson, Mr. Jeff Chorman, Mr. John T. Hastings, Mr. John Williamson, and Mr. Brent Workman. Also, in attendance were Mr. James Sharp, Esquire – Assistant County Attorney, and staff members Ms. Jennifer Norwood – Planning and Zoning Manager, Mr. Chase Phillips – Planner I 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 as presented. Motion carried 5 – 0.

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

Motion by Dr. Carson, seconded by Mr. Hastings, and carried unanimously to approve the Minutes for the December 21, 2020, meeting. Motion carried 5 – 0.

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

Motion by Mr. Chorman, seconded by Mr. Workman, and carried to approve the Findings of Facts for the December 21, 2020, meeting. Motion carried 5 – 0.

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

Motion by Mr. Hastings, seconded by Mr. Chorman, and carried unanimously to approve the Minutes for the January 4, 2021, meeting. Motion carried 5 – 0.

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

Motion by Dr. Carson, seconded by Mr. Chorman, and carried to approve the Findings of Facts for the January 4, 2021, meeting. Motion carried 5 – 0.

The vote by roll call; Mr. Williamson – yea, Mr. Workman – yea, Dr. Carson – 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. 12515 – RC Marshall, Inc.** seek variances from the side yard, front yard setback requirements and the landscape buffer requirement in the Combined Highway Corridor Overlay Zone (CHCOZ) for proposed structures. (Sections 115-82, 115-182, 115-183, 115-185 and 115-194.1 of the Sussex County Zoning Code). The property located on the northeast side of Washington Street at the intersection of Coastal Highway (Rt. 1). 911 Address: 20469 Washington Street, Rehoboth Beach. Zoning District: C-1. Tax Parcel: 334-19.08-173.00

Ms. Norwood stated that, based on the new survey, the variances from the landscape buffer and side yard setback requirements are no longer needed but that the following variances are being requested:

- 20-ft from the required 30-ft front yard setback for proposed HVAC.
- 22-ft from the required 30-ft front yard setback for proposed HVAC.
- 22.9-ft from the required 30-ft front yard setback for proposed deck and stairs.
- 18.8-ft from the required 30-ft front yard setback for proposed dwelling.
- 21.8-ft from the required 30-ft front yard setback for proposed 2<sup>nd</sup> floor deck.
- 17.9-ft from the required 30-ft front yard setback from proposed dwelling.

Mr. Hastings recused himself from voting on this Application as he was not a member of the Board when the public hearing took place.

The Board discussed the case which had been left open at the January 25, 2021, meeting for the limited purpose of allowing the Applicant to submit an updated survey showing the location of the house and HVAC. The survey was submitted and reviewed by the Board.

Mr. Chorman moved to approve Case No. 12515, pending final written decision, for the requested variances as shown on the updated survey as the property has unique physical conditions; that the variances will not alter the essential character of the neighborhood; that the variances will not impair the uses of neighboring properties; and that the variances represent the minimum variances necessary to afford relief.

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

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

**Case No. 12520 – Dewey Beer Company** seeks variances from the side yard setback requirements for a proposed structure (Sections 115-82 and 115-183 of the Sussex County Zoning Code). The property is located on the southeast side of Iron Throne Drive off Harbeson Road (Rt. 5) approximately 0.20 mile north of Lewes Georgetown Highway (Rt. 9). 911 Address: 21241 Iron Throne Drive, Milton. Zoning District: C-1. Tax Parcel: 235-30.00-21.00

Ms. Norwood stated that the Applicant submitted the landscape and fence plan as requested at the February 1, 2021 meeting. Ms. Norwood stated that the following variances are being requested:

- 3- 4x4 pads – 3.4-ft from the required 20-ft side yard setback.
- 2-10x10 pad – 9.4-ft from the required 20-ft side yard setback.
- 1-10x20.5 – 9.4-ft from the required 20-ft side yard setback.
- 1-10x12.5 – 9.4-ft from the required 20-ft side yard setback.

The Board discussed the case which had been left open at the meeting on February 1, 2021, for the limited purpose to allow the Applicant to submit a landscape and fence plan. This plan was submitted by the Applicant and reviewed by the Board.

Mr. Chorman questioned the existence of a fence.

Mr. Sharp noted that the landscape plan shows a fence and landscape plan and stated that the Board could impose conditions on approval requiring a fence; that a 7 foot tall fence is the maximum height allowed but a taller fence would require approval of the Director; and that the drawing submitted by the Applicant shows the fence 14 feet from the south side of the building.

Mr. Hastings moved to approve Case No. 12520 for the requested variances with the conditions that the Applicant install a fence no more than 14 ft. from the building and enclosed on the sides; that the fence must be made of vinyl and 7 ft. tall; and that there be landscaping installed between the fence and the southern property line in a manner consistent with the plan dated February 22, 2021.

Motion by Mr. Hastings, seconded by Mr. Workman, carried that the **variances be granted with conditions for the reasons stated.** Motion carried 4 – 1.

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

## **PUBLIC HEARINGS**

**Case No. 12524 – Linda Reichel & Ann Fones** seek variances from the separation distance requirement for proposed and existing structures (Sections 115-25 and 115-172 of the Sussex County Zoning Code). The property is located on the southwest side of Prince Street within the Camelot Meadows Manufactured Home Park. 911 Address: 19676 Prince Street, Rehoboth Beach. Zoning District: AR-1. Tax Parcel: 334-13.00-304.00-56145

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received one letter in support of and none in opposition to the Application and four mail returns. The Applicant is requesting 0.3 ft. variance from the required 20 ft. separation distance for existing steps from the dwelling on Lot 93 and a 9.8 ft. variance from the required 20 ft. separation distance for an existing foundation and the proposed sunroom from the dwelling on Lot 93.

Ms. Linda Reichel, Ms. Ann Fones, and Mr. Alejandro Cornejo were sworn in to give testimony about the Application.

Ms. Fones testified that the Applicants intended to build a sunroom addition to their dwelling; that they understood that there was a 20 ft. separation distance between buildings; that they obtained a building permit; that the footers were approved by the County; that they did not realize that the measurement was also taken diagonally from the adjacent building; that the addition cannot be completed without a variance; that the Applicants have custody of two grandchildren and additional living space is needed; that this addition will not alter the appearance of the neighborhood; that the adjacent neighbor has submitted a letter of support; that it is only the front corner of the addition that does not comply; that this is leased land and that the landlord did not give the setback information; that there have been no complaints about the existing steps; and that she is not sure who signed the building permit.

Mr. Cornejo testified that he obtained the permit for this addition; that the blueprints were approved; that the footers passed the inspection; that he thought he only had to meet the 5 ft. setbacks; that he was not aware of the 20 ft. separation distance; that, when framing began, the Park Manager stopped by and told them they were not in compliance and were too close to the adjacent building; that it was difficult to get the information from the management regarding setbacks and for a survey; that the exceptional practical difficulty was not created by the Applicants but by the lack of information from the Park management office; and that the existing steps also need a variance of 0.3 ft.

Ms. Norwood stated that the footer inspection passed on October 26, 2020; that the inspector returned on November 12, 2020, and discovered that a separation distance variance was needed; that the Applicants then filed for the variance but it was challenging to find lot lines; that the separation distance is shown on the building permit but it is incorrect as it states the requirement is 22 feet.

Mr. Cornejo testified that they will use the existing steps to a foyer; that there will be no new steps off the front; that there will be new steps to the rear but no variance will be needed for those steps.

Mr. Sharp stated that the existing steps are only here because a variance is also needed for the sunroom and that a variance for the steps could have been handled administratively.

Ms. Fones testified that the landlord supports the Application; that there have been no complaints about the steps; that the steps were on the lot when they moved to the site; and that the steps will connect to the sunroom.

Ms. Norwood stated that the following variances are needed from the 20 foot separation distance requirement from Lot 93:

- 0.3 feet for the proposed sunroom
- 9.8 feet for the proposed sunroom
- 0.3 feet for the existing steps

Ms. Carol McFarland was sworn in to give testimony in opposition to the Application.

Ms. McFarland testified that she has lived in the community since 2009; that a copy of the rules are given to tenants when they move into the community; that the rules are reinforced in the newsletter; that, when doing work on your home, you are to approach the office to get approval; that there have been staffing issues with the landlord; that fires can spread more easily when homes are closer together; that she has concerns about the effect on noise and smells; that the homeowners association is a social organization that has no say in building; that she has previously served on the association board; that she does not oppose the variance for the steps but opposes the variance for the sunroom; that the reason she is opposed is that she objects to this variance to set a precedent for the community; and that room is also needed for lawn mowers.

Ms. Fones testified that, when they moved into the dwelling, a Park Manager was not on site; that they spoke to the salesperson and were told that drawings should be submitted to the County to obtain permits for any improvements; that they did not contact the HOA; that when the footers were approved they assumed they were in compliance with County Code. Ms. Fones submitted pictures of other dwellings within the Park that do not meet setbacks.

Ms. Norwood stated that, if there are previous variances in this Park, they must be older than 2011 as they are not shown on the map.

Ms. Fones testified that the home was placed on the lot prior to their moving to the lot; that they did not place the home; and that the Applicants own the home.

Mr. Cornejo testified that the pictures submitted by the Applicants are of recent additions and that has created confusion about why this addition is not approved.

Ms. Shirley Wright was sworn in to give testimony in opposition to the Application.

Ms. Wright testified that she is concerned if the variance is granted it will reduce the size of lots within the Park.

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

Mr. Williamson closed the public hearing.

Dr. Carson moved to approve Case No. 12524 for the requested variances because the variances will not alter the essential character of the neighborhood and the variances represent the minimum variances necessary to afford relief.

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

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

**Case No. 12530 – Jason & Jennifer Sutton** seek variances from the side yard setback requirement for a proposed structure (Sections 115-42, 115-183 and 115-185 of the Sussex County Zoning Code). The property is located on the west side of Blue Bill Drive within the Swann Keys Subdivision. 911 Address: 37057 Blue Bill Drive, Selbyville. Zoning District: GR. Tax Parcel: 533-12.16-171.00

Mr. Phillips presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or none in opposition to the Application and zero mail returns. The Applicant is requesting a 4 ft. variance from the required 5 ft. side yard setback on the north side for a proposed shed.

Mr. Jason Sutton was sworn in to give testimony about his Application.

Mr. Sutton testified that there was an existing shed at this location on his property; that the shed was rusty and had deteriorated over time; that the existing shed was removed; that the variance request is to place a new shed in the same location; that he has also replaced the bulkhead; that the lot is unique as it is only 50 ft. by 100 ft.; that the home is approximately 28 ft. by 56 ft.; that the rear property line is located 10 ft. inside the canal; that sheds are common in the neighborhood; that the property cannot otherwise be developed; that, due to the narrow nature of the property and the rear being located in the canal, there is no other location to place a shed on the property; that the

exceptional practical difficulty was not created by the Applicants but by the lot size which were created in the early 1980s; that the existing shed is a possible hazard and the new shed will be in the same location and will be structurally sound; that the variance will not alter the essential character of the neighborhood as there are many sheds within the community; that the shed will be in a similar location to other sheds in the neighborhood; that the neighbor's shed is only a few feet from the proposed location of the shed on the subject property; that it is a minimum variance to afford relief and allow for the ability of persons to freely access the rear of the home from the left side of the yard; that the shed will be used to store gasoline and items that cannot be stored in or under the home; that the shed will be on blocks to protect the contents from water damage; that the tide rises in the area; that the bulkhead was replaced but kept in the same location; that the bulkhead had also deteriorated; that the shed will be the same width as his neighbor's shed but smaller; that the proposed shed measures 10 feet by 14 feet and the neighbor's shed measures 10 feet by 16 feet; that the neighbor's shed is 8 inches from the property line; that no HOA approval is required; that the house is a single story house; that the shed was on the property when they purchased the lot; that there were no complaints regarding the existing shed; that the adjacent neighbor does not object to the location of the shed; and that the shed cannot be moved farther away from the property line or turned as it would block access to the rear yard.

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

Mr. Williamson closed the public hearing.

Mr. Chorman moved to approve Case No. 12530 for the requested variance as it will not alter the essential character of the neighborhood nor substantially or permanently impair the appropriate use of development of adjacent property; and that it represents the minimum variance necessary to afford relief.

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

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

Recess  
7:30 p.m. – 7:37 p.m.

**Case No. 12531 – Mark & Amy Bower** seek a variance from the side yard setback requirement for existing structures (Sections 115-42, 115-183 and 115-185 of the Sussex County Zoning Code). The property is located on the southwest side of Quillen Road within the Rehoboth Manor Subdivision. 911 Address: 20592 Quillen Road, Rehoboth Beach. Zoning District: GR. Tax Parcel: 334-19.12-36.01

Mr. Phillips presented the case and stated that the Office of Planning and Zoning received four letters in support of and none in opposition to the Application and zero mail returns. The Applicant is requesting a 1 ft. variance from the required 5 ft. side yard setback on the northwest side for an existing outdoor shower.

The Board found that Mr. Chad Meredith, Esq. was present on behalf of the Applicants, Mark and Amy Bower.

Mr. Meredith stated that the Applicants could not be present but has submitted an affidavit and will appear by teleconference; that this issue came up at the settlement of the sale of the property; that both the Sellers, Carl and Darlene Merry, and the Buyers, Mark and Amy Bower, are available by teleconference to answer any questions the Board may have; that, when the survey was submitted for approval prior to recording, it was discovered that a variance was needed for the outdoor shower; that the subject property is a small lot containing only 4,392 sf; that a prior variance was approved for the side yard of this property; that the outside shower was not part of the original building permit; that, since that variance the small lot ordinance was passed by County Council, the side yard setbacks have been reduced but, even with the reduction, the outdoor shower would not meet the 5 ft. setback; that the shower has been on the property at least since 2015 prior to Mr. and Mrs. Merry owning the home; that all other structures have been approved as a variance was granted in 2005; that the Merrys were unaware that the shower was non-compliant as it was existing when they purchased the property; that the 2015 survey from when the Merrys acquired the lot shows the shower in existence at that time; that the Merrys were unaware of the need for a variance until they went to sell the property; that there have been no complaints or notice of violations regarding the placement of the shower; that this was submitted as an administrative variance as it is only 12 inches; that the Director of Planning and Zoning indicated that he could grant an administrative variance even with reduced setbacks, however, he preferred that this be heard by the Board of Adjustment; that the Director noted that the Applicants could request reimbursement of \$350.00 of the application fee; that there are private restrictions for this subdivision which date back to the 1950s and was prior to the zoning code; that the private restrictions have a side yard setback of 4 ft. and the shower meets that setback requirement; that the property is unique due to its size of less than 4,500 sf; that it cannot be otherwise developed as the shower is existing; that the exceptional practical difficulty was not created by the Bowers or the previous owners, the Merrys; that it will not alter the essential character of the neighborhood as it has been in existence since at least 2015; that there are four letters of support from neighbors; that it is the minimum variance request to afford relief and allow the shower to remain in the current location; and that the Applicants request a return of \$350.00 of the application fee

Ms. Darlene Merry was sworn in by teleconference to give testimony about the Application.

Ms. Merry affirmed the statements made by Mr. Meredith as true and correct.

Ms. Merry testified that she owned at the subject property for five years and she affirmed her affidavit as true and correct.



Mr. Mark Bower was sworn in by teleconference to give testimony about the Application.

Mr. Bower affirmed the statements made by Mr. Meredith as true and correct.

Mr. Bower testified that he is the current owner of the subject property; that the purchase date was December 18, 2020; that there have been no complaints about the location of the outdoor shower; and that there is public water and sewer on the property.

Ms. Melinda Ingram was sworn in to give testimony about the Application.

Ms. Ingram testified that she is a realtor since 2005; that she was the realtor for the seller of the subject property; and that, should the variance be approved, it would not have a negative impact on properties in the community.

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

Mr. Williamson closed the public hearing.

Mr. Hastings moved to approve, pending final written decision, Case No. 12531 for the requested variance as the exceptional practical difficulty was not created by the Applicants; that the variance will not alter the essential character of the neighborhood nor substantially or permanently impair the appropriate use of development of adjacent property, nor be detrimental to the public welfare; that the variance represents the minimum variance necessary to afford relief and represents the least modification of the regulation at issue; and that the Applicants be reimbursed \$350.00 of the Application fee.

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

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

**Case No. 12533 – Jyoti A. Tulsian & Kelsy Swearer** seek variances from the front yard setback requirement for existing structures (Sections 115-82, 115-182, and 115-185 of the Sussex County Zoning Code). The property is located on the north side of Oak Orchard Road (Rt. 5) approximately 245 ft. northwest of Delaware Avenue. 911 Address: 32681 Oak Orchard Road, Millsboro. Zoning District: C-1. Tax Parcel: 234-34.08-57.01

Mr. Phillips presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or none in opposition to the Application and five mail returns. The Applicant is requesting a 9.7 ft. variance from the required 40 ft. front yard setback for existing steps

and a 7.2 ft. variance from the required 40 ft. front yard setback for an existing deck.

The Board found that Ms. Shannon Carmean Burton, Esq. was present on behalf of the Applicants Jyoti A. Tulsian & Kelsy Swearer.

Mrs. Burton stated that the Applicants are requesting variances for existing deck and steps; that the Applicants could not be present but Ms. Swearer has submitted an affidavit which is included with the exhibit booklet; that the previous owners, Jiten and Rachna Soneji, are present to answer questions from the Board members; that the new owners entered into contract in November 2020 to purchase the subject property; that, at that time, the property was improved by a dwelling and unenclosed deck; that, prior to settlement, the Applicants had a survey prepared; that the survey revealed that the deck and steps encroached into the front yard setback area; that, to avoid delay in closing, the Sonejis agreed to escrow funds to ensure that the subject property is brought into compliance with the Zoning Code; that the property is unique as it is a narrow rectangular lot located on Oak Orchard Road and contains approximately 5,176 square feet of land; that the property is located in a commercial zoning district but used for residential purposes; that the exceptional practical difficulty is due to the uniqueness of the property and not due to circumstances or conditions generally created by the provisions of the Zoning Code; that the property cannot be developed in strict conformity with the Zoning Code as it would be necessary to remove the steps and most of the deck which serve as the entrance to the dwelling; that the variances are necessary to enable the reasonable use of the property; that the dwelling is 40.9 ft. from the front property line; that the Applicants did not create the exceptional practical difficulty as they just recently purchased the property with the existing improvements; that the variances will not alter the essential character of the neighborhood nor substantially or permanently impair the appropriate use of development of adjacent property but will serve as the entrance to the dwelling; that there have been no complaints regarding the location of the deck and steps on the property; that the variances requested are the minimum variances to afford relief and represent the least modifications possible of the regulation in issue; that the Applicants only seek to bring the existing improvements into compliance with the Zoning Code; that prior owners' tenant, who was later evicted, added the deck without a contractor and that tenant was evicted in 2015; that other homes in the neighborhood are located closer to the road; and that the deck has been there approximately 6 years.

Mr. Jiten Soneji was sworn in to give testimony about the Application.

Mr. Soneji affirmed the statements made by Mrs. Burton as true and correct.

Mr. Soneji testified that he gave verbal permission for his tenants to build the deck and steps in 2014 but he instructed them to obtain the necessary permits; that, until recently, he was unaware that the deck and steps were not in compliance with the Zoning Code; that he did not know the distance between the edge of paving and the property line; that the property is now served by public water and sewer; and that the existing septic system was removed mid-2000s.

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. 12533 for the requested variances as they will not alter the essential character of the neighborhood and that the variances represents the minimum variances necessary to afford relief.

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

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

**Case No. 12534 – Michael & Dea O’Hopp** seek a variance from maximum fence height requirement for a proposed fence. (Sections 115-50, 115-182 and 115-185 of the Sussex County Zoning Code). The property is a through lot located on the west side of Ocean Park Lane and the east side of Coastal Highway (Rt. 1) within the Fenwick Acres Subdivision. 911 Address: 37146 Ocean Park Lane, Fenwick Island. Zoning District: HR-1. Tax Parcel: 134-22.00-31.00

Mr. Phillips presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or none in opposition to the Application and zero mail returns. The Applicant is requesting a 1.5 ft. variance from the required maximum fence height of 3.5 ft in a front yard setback for an existing through lot.

Mr. Michael O’Hopp was sworn in to give testimony about his Application.

Mr. O’Hopp testified that the property is defined as a through lot because it faces Coastal Highway and Ocean Park Lane and has two front yard setbacks; that the back of the house, which faces Coastal Highway, has a 40 ft. setback and the maximum fence height within the front yard setback is 42 inches; that the side facing Ocean Park Lane is located on the cul-de-sac so the front is a radius creating a uniquely shaped lot; that having two front yards makes it impossible to use the space behind the house to safely contain the family dogs and have enough room for them to exercise; that people walk by the dune crossing and they do not want passersby to pet or grab their dogs; that the exceptional practical difficulty was not created by the Applicant but by the designation of the subject property as a through lot; that a 5 ft. fence is necessary for the safety of his four dogs; that the proximity to Coastal Highway would be dangerous for the dogs and for passing vehicles without the 5 ft. fence; that the fence will not alter the essential character of the neighborhood as the development is bordered by a 6 ft. fence and this fence will not be visible behind the 6 ft. fence; that the HOA has approved the request; that the existing 6 ft. fence is in a state of disrepair so a solid fence is needed for the safety of the dogs and passing pedestrians and vehicles; that the height of 5 ft. is necessary as some of the family dogs could jump a 42 inch tall fence; that the Applicants reside at the subject

property approximately six months each year; that the fence will be approximately 1.5 ft. inside the current 6 foot tall fence; that the existing 6 ft. fence is approximately 20 ft. from Coastal Highway; that there is an entrance to the State Park Beach adjacent to the subject property; that the lot abuts an official dune crossing pathway that has considerable foot traffic in the summer months; that the existing fence is old and is maintained by the HOA; that the existing fence has fallen down at parts; that 1.5 feet is enough room to maintain the fence between the HOA fence; and that HOA rules preclude the erection of a fence in a front yard so the only area where the dogs can roam is the rear of the house.

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. 12534 for the requested variance as it will not alter the essential character of the neighborhood and that the variance represents the minimum variance necessary to afford relief.

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

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

### **ADDITIONAL BUSINESS**

There was no additional business.

**Meeting adjourned at 8:25 p.m.**