

MINUTES OF MARCH 16, 2020

The regular meeting of the Sussex County Board of Adjustment was held on Monday, March 16, 2020, at 6:00 p.m. in the County Council Chambers, 2 The Circle, Georgetown, Delaware.

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, Lauren DeVore – Planner III and Ms. Ann Lepore – Recording Secretary.

The Pledge of Allegiance was led by Ms. Magee.

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

Motion by Mr. Williamson, seconded by Dr. Carson, and carried unanimously to approve the Minutes for the January 27, 2020, meeting. Motion carried 5 – 0.

Motion by Mr. Chorman, seconded by Mr. Williamson, and carried to approve the Findings of Facts for the January 27, 2020, meeting. Motion carried 5 – 0.

Mr. Sharp read a statement explaining how the Board of Adjustment meeting is conducted and the procedures for hearing the case. Due to the Covid-19 pandemic, the Board took additional precautions to protect the safety of applicants, the Board, and the public. Mr. Sharp explained that no parties would be allowed into the Chambers until such time as their case was called upon. After each hearing concluded, the Board would recess for a period of five (5) minutes to make sure no additional comments were submitted to the Board via electronic means. The podium and dais would be wiped down after each speaker.

OLD BUSINESS

Case No. 12407 – Coleman Revocable Trust seeks variances from the side yard setback requirements for a proposed structure (Sections 115-34 and 115-183 of the Sussex County Zoning Code). The property is located on the southeast corner of Jefferson Bridge Rd. and Coleman Gale Ln. 911 Address: 39548 Jefferson Bridge Rd. Bethany Beach. Zoning District: MR. Tax Parcel: 134-17.11-29.00

Mr. Whitehouse presented the case which was left open for the limited purpose of allowing the Applicant to submit building plans and to answer any questions the Board may have about the Application. Building plans were submitted to the Board as requested.

No one appeared on behalf of the Applicant.

The Board discussed the case.

Ms. Magee asked if construction commenced.

Mr. Whitehouse stated that no permit applications have been filed. He also noted that there is no variance needed for the steps or the fireplace because they are allowed to project.

Mr. Sharp stated that, since the Applicant is not present, the Board has 3 options: 1) reschedule the hearing for a later date, 2) submit written questions to the Applicant for written responses to be submitted, or 3) close the record and vote based on the information provided.

Mr. Chorman stated that the property is a clean slate.

Mr. Williamson stated that he believes the change of use of the lot has changed the character of the neighborhood.

The Board had no questions of the Applicant.

Mr. Williamson moved to deny Case No. 12407, pending written decision, for the requested variances as the exceptional practical difficulty has been created by the Applicant and that the variances will alter the essential character of the neighborhood.

Motion by Mr. Williamson, seconded by Mr. Chorman, carried unanimously that the **variances be denied for the reasons stated.** Motion carried 4 - 1.

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

The Board took a three (3) minute recess to bring in all parties for the next application.

PUBLIC HEARINGS

Case No. 12398 – James & Mary Beth Parker seek a special use exception to place an off-premise sign and an electronic message center off-premise sign. (Sections 115-80, 115-81, 115-159.5, 115-161.1 & 115-210 of the Sussex County Zoning Code). The property is located on the north side of John J. Williams Hwy. (Rt. 24) approximately 0.26 mile northeast of Gravel Hill Rd. (Rt. 30). 911 Address: 29856 John J. Williams Hwy., Millsboro. Zoning District: C-1. Tax Parcel: 234-32.00-40.01

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 one mail return. The Applicant is requesting a special use exception to place an off-premises sign with an electronic message center. The proposed sign will measure 25 ft. wide by 10 ft. tall with a maximum height above ground level of 25 ft.

James Parker was sworn in to give testimony about the Application.

Mr. Parker testified that the property is zoned commercial and is located outside of Millsboro; that the property consists of 1.628 acres; that the current use is a mini-storage facility with a commercial use in front; that the request is for a billboard where one side would be static and the other an electronic message center; that a letter of no objection from DeIDOT was submitted with the Application; that the sign will measure 10 feet tall by 25 feet wide and will consist of 250 square feet per side; that the billboard will have a 20 inch steel diameter monopole and will be located 40 feet from the front yard; that the proposed billboard will meet all setback requirements; that the proposed billboard will be 642 ft. from the nearest billboard to the east and 814 ft. from the nearest billboard to the west; that there are no electronic message centers within three miles of the site; that the proposed billboard will be back-to-back and will consist of two parallel signs; that there are no dwellings, churches, or public lands within 150 ft. of the proposed billboard; that the billboard does not pose any fire hazards; that the billboard will not have animation or noise associated with it and will not affect traffic; that the billboard will not affect neighboring property values; that the electronic message center will meet County Code regarding brightness and will be dimmed based on the time of day; that, should the sign malfunction, there is an automatic shut down; that the advertisements on the electronic message center will be fixed for 10 seconds and will change copy within 1 second; that the billboard has hardware and software for automatic dimming controls; that the sign will not affect the uses of adjacent or neighboring properties; that the property to the west is zoned C-1; that the right-of-way along Route 24 is 100' wide; that there 65' from the edge of paving to Route 24; that the east side of the sign will be an electronic message center and the west side of the sign will be a static billboard; and that a roofing company uses the commercial building on site.

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

The Board took a five (5) minute recess to allow for any comments from the public to be submitted electronically.

After the recess, Mr. Whitehouse advised the Board that no additional comments were submitted electronically.

Ms. Magee then closed the public hearing.

Dr. Carson moved to approve Case No. 12398 for the requested special use exception as it will not substantially adversely affect 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 reason 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.

The Board took a three (3) minute recess to bring in all parties for the next application.

Case No. 12423 – Joshua Willin seeks a variance 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 corner of Beagle Club Rd. and Vine St. directly across from Baileys Landing Dr. 911 Address: 30127 Beagle Club Rd., Bethel. Zoning District: AR-1. Tax Parcel: 232-11.00-1.12

Mr. Whitehouse 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 one mail return. The Applicant is requesting a 15 ft. variance from the required 15 ft. side yard setback for a proposed garage.

Joshua Willin was sworn in to give testimony about the Application.

Mr. Willin testified that the property is unique as it has a 100 ft. sight easement by DeIDOT; that almost $\frac{3}{4}$ of the lot is unbuildable because of the easement; that the property line is curved; that the house had to be built farther back than he wished due to the easement; that the building envelope for the property is small; that he did not create the exceptional practical difficulty; that there is nowhere else on the property to place a garage as it would reduce the size of the backyard; that the exceptional practical difficulty was caused by the sight easement; that the variance will not alter the essential character of the neighborhood as there are few homes in the area and those that are developed have garages; that the area is generally rural; that the dwelling uses well and septic; that the septic is to the south of the house and the well is in the front yard; that he intends to use the garage for a workshop; that he cannot build anything in the sight easement; that it would be possible to move the garage off the property line so that the garage is not on the property line; that he intends to build a playground and a pool in the rear yard as well; that he could pull the garage off the side property line; that he also considered a rear yard variance; that he considered turning the garage but he felt that doing so would take up too much of the rear yard; and that the garage will be used for personal use only and will store his car, lawn mower, and bike.

Mr. Sharp advised the Applicant that no rear yard variance was applied for and the Board did not advertise for a rear yard variance so the only variance to consider is the side yard variance.

Mr. Willin testified that he believes he could build the garage 5 feet from the side property line; that the garage will be 10 feet tall; that he considered turning the garage but, he did so in the past, and had difficulty using the garage; that he purchased the property in 2019 and built the house; and that he was unaware of the easement until he was further along in the building process.

Glenell Hopkins was sworn in to give testimony in opposition to the Application.

Mr. Hopkins stated that there are deed restrictions stating that garage cannot be placed in the front yard and that no business can be located on the site.

Mr. Whitehouse stated that a conditional use would be required if the Applicant sought to use the garage for business purposes.

Mr. Sharp showed Mr. Hopkins that Mr. Willin proposes to put the garage to the rear of the house.

Mr. Hopkins testified that he has no objection to the Application and that had misunderstood the request. He also testified that the intersection is dangerous.

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

The Board took a five (5) minute recess to allow for any comments from the public to be submitted electronically.

After the recess, Mr. Whitehouse advised the Board that no additional comments were submitted electronically.

Ms. Magee then closed the public hearing.

Mr. Chorman moved to approve Case No. 12423 for the modified variance of 10 ft. from the required 15 ft. side yard setback as the property is unique due to the sight line easement from DeIDOT and that it will not affect the essential character of the neighborhood.

Motion by Mr. Chorman, seconded by Mr. Workman, carried unanimously that the **variance, as modified, 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.

The Board took a three (3) minute recess to bring in all parties for the next application.

Case No. 12424 – Alvin Bailey seeks variances from the front yard and side yard setback requirements for existing structures and for a lot width variance for a proposed lot (Sections 115-25, 115-182, 115-183 and 115-185 of the Sussex County Zoning Code). The property is located on the northeast corner of Bailey Ln. and Doddtown Rd. approximately 0.24 mile north of Anderson Corner Rd. 911 Address: 26155 Bailey Ln. Harbeson. Zoning District: AR-1. Tax Parcel: 234-4.00-2.00

Ms. DeVore 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 the following variances:

- 60 ft. variance from the required 150 ft. lot width for a proposed lot (“Residual Lands” as shown on a minor subdivision plan dated December 17, 2019);
- 6.9 ft. from the required 15 ft. side yard setback on the south side for an existing manufactured home on the Residual Lands as shown on a minor subdivision plan dated December 17, 2019;
- 8.1 ft. from the required 15 ft. side yard setback on the south side for an existing manufactured home on the Residual Lands as shown on a minor subdivision plan dated December 17, 2019;
- 10 ft. variance from the required 30 ft. front yard setback for an existing manufactured home on the Residual Lands as shown on a minor subdivision plan dated December 17, 2019; and
- 39.73 feet from the 150 ft. lot width requirement for a proposed lot (“Parcel A” as shown on a minor subdivision plan dated December 17, 2019).

Alvin Bailey was sworn in to give testimony about the Application.

Mr. Bailey testified that the property is one lot and he proposes to subdivide the property into 2 lots; that the existing manufactured home on the rear of the lot is too close to the side property line; that there is a house in the front of the lot as well which is identified as “existing improvements” on the survey; that there was a complaint and the County inspector served a violation and, as the Applicant, that he would like to subdivide the property and request variances to be compliant with County Code; that the property is unique as it is on an angle; that it cannot otherwise be developed as the manufactured home has been on the property for twenty-four years; that there have been no issues since recently; that the exceptional practical difficulty was not caused by the Applicant as he inherited the property in 2009 and was unaware that it was not in compliance with County Code; that he did not place the structures on the lot; that the manufactured house is 42 years old; that his mother and sister live in the house in the front and that his cousin lives to the property to the south; that the garage and sheds on the proposed Parcel “A” have been on the property for many years; that there are no steps off the front of the manufactured house; and that there is no HVAC for the manufactured house.

Mr. Whitehouse stated that he reviewed the aerial photographs and a manufactured house appeared on the lot in 1992.

Mr. Bailey testified that it will not alter the essential character of the neighborhood as it has been in existence for twenty-four years and is set back off the road; that each lot is served by well and septic; that it is the minimum variance to afford relief and bring the house into conformity; that the manufactured home in the front of the lot in 1992 was later moved to the rear of the lot and a newer manufactured home was placed in the front yard; and that the septic is located to the rear of the house.

Vina Bailey was sworn in to give testimony in opposition to the Application.

Ms. Bailey testified that currently the Applicant must cross her property to access his property; that she obtained a survey in 2017 and discovered that both parties are encroaching onto the other's land; that the Applicant installed a fence without a permit; that her issue is with the driveway; that she has no issue with the location of the manufactured house other than the lack of a permit; that the Applicant did not place the manufactured house on the lot; and that she received a manufactured house special use exception for a medical hardship on her lot but the house has since been removed.

Peter Lowenstein and Vernon Walsh, surveyors with Atlantic Surveying and Mapping were sworn in to give testimony about the Application.

Mr. Lowenstein testified that the right-of-way has been used by both families for a number of years; that he thinks Mr. Bailey is trying to straighten up the area; that he drafted the survey; that the access will be corrected; that it has become a prescriptive right-of-way meaning that neither family can prevent the other from using it as they both have been accessing it for so long; and that the area of encroachment for the road is approximately 20-30 feet.

Mr. Walsh testified that the portion of the right-of-way that is used by Ms. Bailey measures 14 ft. x 6 ft. approximately.

Ms. Vina Bailey submitted a survey of the property and she asked if the lot was large enough to subdivide.

Mr. Sharp stated that the lot is 1.62 acres, so each lot would be approximately 0.8 acre and the requirement for a lot in the AR-1 district is 0.75 acre. Mr. Sharp also explained that the Board is not the proper party to decide boundary line disputes.

Mr. Bailey testified that he will obtain a permit for the fence and that he will widen the access so that his driveway is entirely on his property.

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

The Board took a five (5) minute recess to allow for any comments from the public to be submitted electronically.

After the recess, Mr. Whitehouse advised the Board that no additional comments were submitted electronically.

Ms. Magee then closed the public hearing.

Dr. Carson moved to approve Case No. 12424 for the requested variances as the physical conditions of the property are unique; that the variances will not alter the character of the neighborhood; and that the variances are the least modifications to afford relief.

Motion by Dr. Carson, seconded by Mr. Workman, 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.

The Board took a three (3) minute recess to bring in all parties for the next application.

Case No. 12425 – Rollin & Lisa Bell seek variances from the front yard, corner front and side yard setback requirements for proposed and existing structures (Sections 115-34, 115-182 and 115-183 of the Sussex County Zoning Code). The property is located on the corner of Beach Ave. and Pierce Ave. approximately 818 ft. east of Coastal Hwy. (Rt. 1). 911 Address: 2 Beach Ave., Rehoboth Beach. Zoning District: MR. Tax Parcel: 334-23.06-93.00

Ms. DeVore 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 two mail returns. The Applicants are requesting the following variances:

- 5.34 ft. from the required 10 ft. front yard setback for a proposed elevator and balcony on the west side of the dwelling;
- 0.3 ft. from the required 15 ft. corner front setback on the north side for the existing dwelling; and
- 0.31 ft. from the required 10 ft. front yard setback on the west side for the existing dwelling.

Mr. Whitehouse stated that the history on this property shows that the Planning and Zoning Commission determined that the Atlantic Ocean is the front of the house.

Mr. Sharp stated that, based on the Commission's prior determination, Pierce Avenue is also a front yard but has a 10 ft. setback and that Beach Avenue is a corner front with a 15 ft. setback requirement.

Mackenzie Peet, Esquire, presented the Application on behalf of the Applicants. Rollin Bell was sworn in to give testimony about the Application.

Ms. Peet stated that the Applicants are requesting three variances, two for the existing dwelling to remain in its current location and one for a new elevator and balcony to the home; that

the shape of the lot is unique and the DNREC building limit line affects the placement of the building and the proposed elevator; that, due to the DNREC building regulations, there is no possibility that the dwelling can be built in strict conformity with Sussex County Code; that the dwelling was constructed by a prior owner; that there is nowhere else to place the elevator; that the exceptional practical difficulty was not caused by the Applicants but by the unique building restrictions on the lot; that the request to build the elevator is because the Applicants wish to make access to the dwelling easier for their elderly parents to move around the house; that they also have approval from DNREC; that it will not alter the essential character of the neighborhood; that there are similar houses in the neighborhood; that the Applicants purchased the Property in 2005; that most of the yard is unbuildable due to DNREC regulations; that there is no impact on visibility of adjacent roads; and that it is a minimum variance to afford relief.

Mr. Bell affirmed the statements made by Ms. Peet as true and correct. Mr. Bell testified that he discussed the Application with his neighbors and that there have been no complaints about the structures.

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

The Board took a five (5) minute recess to allow for any comments from the public to be submitted electronically.

After the recess, Mr. Whitehouse advised the Board that no additional comments were submitted electronically.

Ms. Magee then closed the public hearing.

Dr. Carson moved to approve Case No. 12425 for the requested variances as the property has unique physical conditions; that granting the variances is the only way for the property to be developed; that the variances will not alter the essential character of the neighborhood; and that the variances are the minimum variances 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.

The Board took a three (3) minute recess to bring in all parties for the next application.

Case No. 12426 – Ann & Dean Geis seek variances from the required walk space between pool walls and protective fences for a proposed swimming pool (Section 115-185 of the Sussex County Zoning Code). The property is located on the east side of Kelly Ln. in the Breakwater Beach

subdivision. 911 Address: 29323 Kelly Ln., Bethany Beach. Zoning District: MR. Tax Parcel: 134-5.00-436.00

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 zero mail returns. The Applicants are requesting variances from the 3 feet walk space requirement around a proposed swimming pool to allow for a walk space on two sides of the pool only. The Applicants propose that there would be no walk space on the north and east sides of the proposed pool.

Dean Geis and Jaime Toner were sworn in to give testimony about the Application. Mr. Geis submitted a copy of the construction plans.

Mr. Geis testified that he purchased the home in August 2019; that the neighborhood has approved the pool; that he is diabetic and his wife is immune compromised; that they use pools for aerobics; that the pool will be located within the footprint of the existing deck; that they propose to construct a narrow walkway on the northeast side of the pool; that the pool will be elevated and not seen from neighboring lands; and that the proposed pool will measure 10 feet wide and is small.

Ms. Toner testified that the current County Code does not account for some more modern pool installations such as vanishing edges or in this case a pool that is elevated 10 ft; that, if it were at grade, you would need that distance of 3 ft. between the barrier and pool for safety reasons; that there is a deck railing measuring 3 feet tall; and that, because the pool is elevated 10 feet, a 4 foot tall fence is not needed.

Mr. Whitehouse stated that no variance as to the fence is at issue.

Mr. Geis testified that he would add a 4 foot tall fence or barrier if required; that he discussed the matter with his neighbors; that the homeowners association approved the request; that the pool will measure 10 feet by 20 feet; that the house has 6 bedrooms; that the neighbor to the north has a pool; that the property is unique as it is in a flood zone and the location of the DNREC building line; that the pool could not be placed elsewhere on the property because of the lot's physical conditions; that the Applicants did not create the DNREC restrictions and are making an effort to maximize the space within the allowable limits; that the Applicants would lose the functionality of the deck if the variance is not granted; that it will not alter the essential character of the neighborhood as there is a pool to the north and the community now allows residents to install swimming pools; that it is a minimum to afford relief; that safety concerns will be addressed as the pool will be on a deck which will be 10 ft. off the ground; and that there no smaller pools available.

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

The Board took a five (5) minute recess to allow for any comments from the public to be submitted electronically.

After the recess, Ms. Devore advised the Board that no additional comments were submitted electronically.

Ms. Magee then closed the public hearing.

Mr. Williamson moved to approve Case No. 12426 for the requested variances as the property is unique with the flood zone requirements and the location of the DNREC line; that it is the minimum variance request as the Applicant is installing a small swimming pool; and that it will not alter the essential character of the neighborhood.

Motion by Mr. Williamson, 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.

The Board took a three (3) minute recess to bring in all parties for the next application.

Case No. 12427 – Robert Barkey & Janet Hynes seek 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 southeast side of Jersey Road approximately 0.19 mile northeast of John J. Williams Hwy. (Rt. 24). 911 Address 26508 Jersey Road, Millsboro. Zoning District: AR-1. Tax Parcel: 234-32.00-91.00

Mr. Whitehouse presented the case and stated that the Office of Planning and Zoning received three letters in support of and one letter in opposition to the Application and zero mail returns. The Applicant is requesting a special use exception for an existing garage studio apartment.

Janet Hynes was sworn in to give testimony about the Application. Ms. Hynes submitted exhibits to Board members.

Ms. Hynes testified that, until the constable visited the property and informed the Applicants that the property was in violation, she was unaware that a special use exception was required for a garage studio apartment; that the 3 car garage was a preexisting structure on the property; that there is parking on the property for the garage studio apartment; that neighbors have submitted letters stating they support the Application; that she disputes that there are visitors day and night; that the tenants are an elderly veteran and his wife who is ill and there are no noise issues; and that there is a fire-rated door between the garage and the apartment.

Mr. Whitehouse stated that there are some permits for the dwelling but no permits for the conversion of the garage to an apartment.

Ms. Hynes testified that the garage was there when the Applicants purchased the Property in 2017; that they set up walls to live there while building the house but they did not end up staying there; that the garage was not used as an apartment when they bought the Property; that the Applicants added the living quarters; that approximately 1/3 of the garage is used for the apartment; that her husband operates an upholstery business in the garage as well; that they have had tenants in the garage for over 2 years; that the apartment was previously used by a couple with their grandkids; and that the property is served by well and septic.

Mr. Whitehouse stated that the garage was present on the 1973 property record card so it is treated as a non-conforming use.

Jeremy Murdock and Dennis Murphy were sworn in to give testimony in opposition to the Application.

Mr. Murdock testified that he was the previous tenant; that the apartment consists of 750 square feet; that he believes that the building was remodeled without permits and that it does not meet County Code; that he was unaware that he was living in an illegal apartment; that the unit is not safe; that one of the bedrooms does not have a proper egress window and the door to the garage is not a fire-rated door; that he believes that the septic system was not designed for five bedrooms and four bathrooms; that the apartment had excessive electric bills; that the upholstery shop and the Applicants' mancave are all on the same meter as the apartment; that he noted no traffic issues from the apartment but there are issues with traffic from the upholstery shop; that the septic for the apartment clogged up daily; that he lives in the neighborhood now; and that he is opposed to the Application.

Mr. Murphy testified that he lives across the street and has issues with the upholstery shop; that he is opposed to the request for the special use exception due to the noise and the traffic generated by the apartment; that the Applicant bragged about improving the garage without a permit; that the apartment was constructed to the rear of the garage; that the apartment is located over the garage; that he has been inside the garage; that he moved into the neighborhood after the garage was renovated; that there is a great deal of traffic on the Property; that he believes it will have an adverse effect on his property value but did not have documentation to support that opinion.

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

The Board took a five (5) minute recess to allow for any comments from the public to be submitted electronically.

After the recess, Mr. Whitehouse advised the Board that no additional comments were submitted electronically.

Ms. Hynes testified that there are 2 bedrooms in the apartment and 3 bedrooms in the house; that the DNREC septic permit is good for up to 5 bedrooms; that she did not get a permit for the garage renovation; that her husband works in construction; that the deck was built without a permit; that there is some glue used in the upholstery business; that the deck is to the rear of the garage; that the upholstery business only runs in the summer; that she does not have the permit to connect the garage bathroom to the septic system; and that she hired a plumber to tie into the septic system.

Mr. Workman stated that the DNREC permit was only for 3 bedrooms.

Mr. Sharp stated that the Applicants likely need a variance for the deck added to the garage.

Ms. Magee then closed the public hearing.

Mr. Workman moved to deny Case No. 12427 for the special use exception as it will substantially adversely affect the uses of neighboring and adjacent properties and that the septic system is not designed to support the addition of a garage studio apartment.

Motion by Mr. Workman, seconded by Dr. Carson, carried unanimously that the **special use exception be denied 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.

ADDITIONAL BUSINESS:

The Board discussed the previous decision to change the meeting time during the summer months.

Motion by Mr. Chorman, seconded by Dr. Carson to keep the meeting time to 6:00 p.m. throughout the year. Motion carried 5-0.

Mr. Workman congratulated Mr. Whitehouse on his appointment as Director for Planning and Zoning. Mr. Whitehouse thanked the Board members and introduced Mr. Nick Torrance who has joined the Planning and Zoning Department as a planner.

Meeting adjourned at 10:04 p.m.