

MINUTES OF MARCH 7, 2022

The regular meeting of the Sussex County Board of Adjustment was held on Monday, March 7, 2022, at 6:00 p.m. in the County Council Chamber, Sussex County Administration Office Building, Georgetown, Delaware. The teleconference system was tested during the meeting by staff to confirm connectivity.

The meeting was called to order at 6:00 p.m. with Chairman John Williamson presiding. The Board members present were: Dr. Kevin Carson, Mr. Jeff Chorman - Absent, Mr. John T. Hastings, Mr. Jordan Warfel, and Mr. John Williamson. 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, Ms. Ann Lepore – Recording Secretary, and Ms. Amy Hollis – Recording Secretary.

The Pledge of Allegiance was led by Mr. Williamson.

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

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

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

PUBLIC HEARINGS

Case No. 12662 – Mark E. Helner seeks variances from the front yard setback, rear yard setback and corner front yard setback requirements for existing and proposed structures (Sections 115-25, 115-182 and 115-183 of the Sussex County Zoning Code). The property is located at the southeast side of Mulberry Knoll Road at the intersection of Mulberry Knoll Road and West Mint Place within the Mulberry Knoll subdivision. 911 Address: 20640 Mulberry Knoll Road, Lewes. Zoning District: AR-1. Tax Map: 334-18.00-72.00

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received seven (7) letters in support of and no correspondence in opposition to the Application and three (3) mail returns. The Applicant is requesting variances of 2.2 ft. & 2.3 ft. from the 30 ft. front yard setback requirement for an existing dwelling, 19.9 ft. & 19.2 ft. from the 20 ft. rear yard setback requirement for an existing shed, and 8.8 ft. from 15 ft. corner front yard along West Mint Place for a proposed garage.

Mr. William Schab, Esquire, appeared on behalf of the Applicant.

Mr. Schab stated that the property was purchased by Mr. Helner and his late wife twelve (12) years ago; that the house has not changed since the date of purchase; that there are bump outs for closets on the front of the home which may require a variance also; that the uniqueness of the home

is that it was built without a garage but placed absolutely in the middle of the lot; that almost every other home in the neighborhood has a garage; that he could not construct a garage without a variance; that this property is a corner lot thereby increasing the setback requirement; that, when the property was being negotiated during foreclosure, the previous shed was removed and the septic system was damaged during the removal; that the septic system had to be replaced; that replacing the septic system limited the buildable area further; that they used a shed dealer who placed the shed at the edge of the property line in roughly the same location as the prior shed; that Mr. Helner has received letters of support from neighbors, including the most adjacent neighbor to the rear; that the neighbor to the rear likes the shed as it creates a barrier; that the front and rear variances are needed to correct existing problems; that the front of the home was not created by the Helners; that the issue with the shed was created by the Applicant but the Applicant was unaware of the setbacks; that the Applicant had no part in placement of the home on the lot; that the neighbors have indicated the requested items will increase the character of the neighborhood; that the garage is necessary to enable the reasonable use of the property; that very few lots in the neighborhood lack garages; that the garage will bring the property more into compliance with the neighborhood; that there is no sidewalk in the neighborhood; that there is about 15 ft. between the pavement and the property line so the encroachment is less noticeable; that these are the minimum variances in order to use the home in the way his client needs; that the shed variance is 4 ft. 9 inches; that the shed cannot be moved into compliance; that the shed has been on the property for 12 years; that his client believes it is an undue hardship to not have a garage; that on the survey there are more additions but they do not require variances; that, if it were not a corner lot, his client would not need a variance for the garage; and that the garage is small for his client's needs.

Ms. Norwood clarified that the rear yard setback is 20 ft. but that, due to the size of the shed, it can be placed 5 ft. from the property line.

Mr. Mark E. Helner was sworn in to give testimony about the Application.

Mr. Helner testified that Mr. Schab, Esquire, accurately stated his case information; that, when he purchased the home, it was under foreclosure; that he does not know who removed the shed and destroyed the septic system; that the new septic system was placed where the former shed was located; that he would like the garage in order to move to this home full-time and store his car, boat, and additional items; that he has spoken with his adjacent neighbors and they wrote letters in support; that the neighbors behind him would like to paint a mural on the rear of his shed facing their property; that he discovered he needed a variance due to a neighbor doing similar work on their property; that the four seasons room and screen porch are not built yet; that the garage will measure 28 feet by 24 feet; that the proposed garage is the minimum necessary due to current landscaping; that there are trees on the lot and he plans to maintain those trees; that, if he has to move the shed, it will be very close to the back deck and he would be unable to open the doors; that there is no ramp on the shed; that he does have to go on to his neighbor's property to maintain his shed and those same neighbors do the same in order to maintain their shed; that the shed is completely on his property; that he is trying to maximize the space he can obtain as this will be his primary home; that he owns cars, a boat, jet skis,

and wood working equipment that he wants to place in the garage; that there is no homeowner association approval that he is aware of; that there will be no visibility issues due to his construction; that the garage will be entered from the current driveway off West Mint Place; that there is no basement and minimal storage in the attic; that he does not know the existing square footage of the home; and that he maintains the property behind his neighbor's shed as well as his own.

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

Mr. Williamson closed the public hearing.

Mr. Warfel moved to approve Case No. 12662 for the requested variances, pending final written decision, with the modification that the shed be located no closer than 2 feet from the rear property line, for the following reasons:

1. The property has unique conditions due to the exceptionally small buildable area;
2. That, due to the physical conditions, the property cannot be developed in strict conformity with Sussex County 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 variances will not alter the essential character of the neighborhood nor substantially or permanently impair the appropriate use or development of adjacent property nor be detrimental to the public welfare; and
5. The variances represent the minimum variances necessary to afford relief.

Motion by Mr. Warfel, seconded by Dr. Carson, carried that the **variances be granted with modification for the reasons stated.** Motion carried 3 – 1.

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

Mr. Hastings stated that the corner front yard setback requirement is in place for a reason.

Case No. 12663 – Michelle McNichol & Jewell Estes seek variances from the front yard setback, side yard setback, and maximum fence height requirements for proposed structures (Sections 115-25, 115-182, 115-183, and 115-185 of the Sussex County Zoning Code). The property is a through lot located on the west side of Daisey Road and the east side of Bay Road. 911 Address: 20642 Daisey Road, Rehoboth Beach. Zoning District: AR-1. Tax Parcel: 334-19.12-43.00

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received five (5) letters in support of and no correspondence in opposition to the Application and one mail return. The Applicants are requesting a 14.1 ft. and 18.7 ft. variance from the 30 ft. front yard setback on Daisey Road for a proposed garage, a 21.1 ft. and 24 ft. variance from the 30 ft. front yard setback

on Bay Road for a proposed pool house, an 11.8 ft., 17.6 ft., and 20.3 ft. variance from the 30 ft. front yard setback on Bay Road for a proposed pool, an 13.8 ft., 19.6 ft., and 24 ft. variance from the 30 ft. front yard setback on Bay Road for a proposed walkway, a 19 ft. and 16.1 ft. variance from the 30 ft. front yard setback on Bay Road for a proposed outdoor kitchen, and a 2.5 ft. variance from the 3.5 ft. maximum fence height requirement in a front yard setback along Bay Road for a fence

Ms. Michelle McNichol and Ms. Jewel Estes were sworn in to give testimony about the Application. William Schab, Esquire, appeared on behalf of the Applicants.

Mr. William Schab, Esquire, stated that the uniqueness of the property is that the general cause of the need for variances is due to the road in front of and behind their property; that, if the property did not have the front yard setback in the rear of the property, the Applicants would only need one variance; that both roads dead end at the Applicants' property; that the impact on the visibility of the road is zero (0); that his clients have gone to extreme lengths to design a home specific to their needs; that the Applicants have owned this property for nineteen (19) years; that the existing house is an older beach type home that the Applicants wish to modernize the home; that they have had numerous meetings with Planning and Zoning staff and have done their best to request the bare minimum variances to meet their needs; that he was wrong on the distance between the property lines and the paved road; that the shape and size of the lot make it unique; that one side of the property is bordered by Spring Lake Condominiums; that each neighbor has been made aware of their plans and are in favor; that the front yard variance will be far less encroaching than the existing garage; that the Applicants need no side yard setback variances; that the rear of the property requires the majority of the variances; that this effects no one but his clients; that his clients did not place the roads or determine the size of the lot; that his clients have been working on this with him for two (2) years; that this neighborhood consists of older beach houses being modernized as residents are now more full-time; that, due to the setback in the back yard, with front yard setback, it renders their back yard as nothing other than an open space without variances; that the Applicants will need a fence with the pool; that the Applicants did not create the 30 ft. rear yard setback due to the two front yards of their property; that there are multi-family homes close to their property that have been grandfathered in; that their neighborhood is filled with a variety of types and styles of homes; that the structures will benefit the neighborhood; that the Applicants intend to use the property as though Bay Road did not exist; and that the shed is being removed from the property.

Ms. McNichol testified that Bay Road terminates into Thompson Island Reserve; that Bay Road is a three (3) house road; that the home is designed to have first-floor living; that she had 6 surgeries in recent years and needs to maximize first-floor living; that the home will be designed to allow them to age in place; that there is a room for a caretaker as well; that they have not yet spoken with an architect; that the outdoor kitchen is a porch with kitchen built in; that their lot with the others on their road make a pie shape; that their neighbors are summer homes, not primary residences; that their road has little to no traffic; that there is little traffic to the State Park area, mainly used to walk dogs; that she is aware that the county has done a walking tour before, but in twenty (20) years they have never seen one; that the front of their property is Daisey Road; that their address and mail box

are on Daisey Road; that they do not know the square footage of the home; that they are intending to do first floor living; that she has had six (6) orthopedic related surgeries in six (6) years, with more possibly coming; that she is in her sixties (60s), and the plan is to put an elevator in the garage for future use; that they are trying to age in place and possibly have an area for a caretaker if needed in the future; that they have not had an architect do any plans, as they were told they would not do a design until they were able to determine placement of the structures; that the proposed pool is an in-ground pool; that the deck is on the ground as they are trying to make everything one step or less; that they are unsure of the construction of the pool house as it depends on the type of pool they purchase and placement; that they are not developing their lot significantly more than their neighbors; that they have seen different variations of styles of homes around them; that she affirms Mr. Schab's statements; that they do not know the nature of their neighbors plans but multiple neighbors have pools; that there is no HOA approval needed; that the design they have submitted is a scaled back version, which they did after consulting with their attorney; that the garage looks to be a third of the footprint; that they cannot place an elevator in their current structure; that they are just asking for the variance to maintain quality of life; that they have made numerous changes to their plan over the past three (3) years; that they are not saying that all of these are essential to their living but they are trying to maximize the area they do have; that their back yard is enclosed by a solid white vinyl fence, and Spring Lake has a fence along their side yard; that she spoke with staff when they started looking at updating their property but never filed the application; and that she did not have a hearing on any variance previously.

Ms. Estes testified that Bay Road terminates into a state park; that there is a small parking area that transitions into a walking path; that the pictures indicated they would not be changing the essential look of the home compared to what is there now; that no one would know they have a pool, due to the fence; that the garage is currently on the property line and the Applicants propose adding a second-story bay to the garage and pushing to back; that a neighbor received a similar variance last year; that they hope to retire and spend the next thirty (30) years there; that their neighbors received variances for other things and sent in letters of support; that their neighborhood consists of many residents who plan on remodeling their homes; that they were told that their home used the most oil in Rehoboth; that the house is uninsulated; that they were previously told that their home could not be built upon as it is not structurally sound so their plan is to start from scratch with a new home; that the front of their property is Daisey Road; that they consider the Bay Road side of the lot to be the rear yard; that the mailbox is on Daisey Road; that they are demolishing their current home and rebuilding; that the foundation would be reused if possible; that they wanted to use the same footprint; that the home will consist of possible 3,200 square feet; that they plan to install an elevator in the garage to provide access to the house; that there is only one bedroom with no bathroom on the first floor and, due to the nature of the home, they cannot remodel; that they have been told by architects that they will not touch this project until they receive the necessary variances; that they propose an in-ground pool with a ground-level pool deck; that they have spent two (2) years trying to get this figured out; that neighboring houses have recently done renovations and they are trying to do the same; that the neighborhood is changing and is eclectic; that their neighbor obtained a variance to move property lines and for a fence height requirement; that they do not have vehicular access to Bay

Road; that she affirms Mr. Schab's statements; that no homeowner association approval is needed; that they have scaled back their designs; that their outdoor area is a tremendous amount of work to store the furniture for the winter and they are trying to make it a more reasonable amount of work; and that Ms. McNichol is arthritic and would be using the pool and hot tub in a therapeutic manner.

Ms. Norwood clarified that, if Bay Road was not there, the property would have a 15 ft. rear yard setback and still benefit from the small lot ordinance granting them a 5 ft. side yard setback; and that, if Bay Road was not there, since the proposed pool house consists of less than 600 square feet, it could be 5 ft. off the property line.

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 in part and to deny in part the variances request for Case No. 12663. As part of his motion, Mr. Hastings moved to approve the variances requested from Bay Road setback and to approve the fence height variance but to deny the variances requested from Daisey Road, pending final written decision

Motion by Mr. Hastings, seconded by Mr. Warfel, carried that the **variances be granted in part and denied in part for the reasons stated.** Motion carried 3 – 1.

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

RECESS – 7:16 PM – 7:20 PM

Case No. 12664 – John Klemash seeks variances from the corner front yard setback and maximum fence height requirements for existing and proposed structures (Sections 115-25, 115-182, and 115-185 of the Sussex County Zoning Code). The property is located at the intersection of Prestwick Drive and Piper's Lane within the Prestwick Subdivision. 911 Address: 24987 Prestwick Drive, Milton. Zoning District: AR-1. Tax Parcel: 230-22.00-168.00

Mr. Phillips presented the case and stated that the Office of Planning and Zoning received four (4) letters in support of and none in opposition to the Application and zero mail returns. The Applicant is requesting a 49.6 ft. variance from the 60 ft. corner front yard setback requirement from Piper's Lane for a proposed detached garage and a 0.5 ft. variance from the 3.5 ft. maximum fence height requirement for a fence along the corner front yard property line.

Mr. John Klemash was sworn in to give testimony about their application.

Mr. Klemash testified that his home was built as a spec home; that he must be 10 ft. away

from the septic system; that his home is 60 ft. from Piper's Lane; that the placement of his proposed garage will not affect visibility from the roadway; that his garage will not be taller than his home; that his proposed garage will have a second floor which will house a possible home office and storage; that the development is fully established; that, if he had been aware of the setback, he might have reconsidered purchasing it; that many other properties in the neighborhood have similar garages; that being a corner lot it is recognized as having two (2) front yards; that there are irrigation lines on the left side yard of his home; that, due to Covid-19, his wife is primarily working from home; that they have two (2) vehicles in addition to his work vehicle; that their home has no closets and he converted part of the attached garage into a storage area / wooden locker system thereby eliminating the ability to park two cars; that the garage is the minimum size required to accommodate his needs; that he has two (2) dogs and two (2) young children; that there is a nearby retention pond so the fence is necessary for safety; that the HOA would need to approve the proposal as well but he wanted to seek the variance prior to HOA approval, as he did not want to waste time if he was not granted the variance; that there are 33 or 35 homes in the neighborhood; that his home has a well and septic; that, due to the placement of the well and irrigation lines on the left side, he would not be able to place his garage on that side of the home; that his HOA has no standard on second driveways but the driveways are placed in such a manner that they are offset throughout the neighborhood; that there is no propane tank on the property; that the propane tank is off the property and is metered; that their attached garage is the standard size for a two (2) car garage; that he would have to expand the width of his driveway to access the detached garage which he would also address with the HOA; that there are no swales or sidewalks in the front yard; there are no requirements to house his work vehicle in a garage but it is his personal preference for security; that his fence is currently 3.5 ft. tall but he wants to increase it to 4 ft.; that there other pets in the neighborhood and he is mainly concerned about safety of his young children; that the fence will be of vinyl material and will butt up to the proposed garage; that his fence will be staying in the exact location it is currently; that he is keeping the fence as it is; that his property line does not go all the way to the paved road as there is a gap between the edge of paving and the property line; that he estimates there is approximately 25 feet to the edge of paving; that the fence variance would be just in case his fence is above the setback requirement; and that the variances are the minimum variances requested to obtain relief and maximize his usable area.

Ms. Norwood stated that she may have interpreted that his fence was 4 ft. rather than 3.5 ft.

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. 12664 for the requested variances, pending final written decision, subject to the condition that the Applicant obtain approval from his HOA for the improvements and provide evidence of said approval to the Planning & Zoning Office, for the following reasons:

1. The property has unique conditions due to the exceptionally small buildable area and the septic system;
2. That, due to the physical conditions, the property cannot be developed in strict conformity with Sussex County 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 variances will not alter the essential character of the neighborhood nor substantially or permanently impair the appropriate use or development of adjacent property nor be detrimental to the public welfare; and
5. The variances represent the minimum variances necessary to afford relief.

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

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

Case No. 12665 – Candice Windsor n/k/a Candice Kinsler & Christopher Kinsler seeks a variance from the corner front yard setback requirement for an existing and proposed structure (Sections 115-34 and 115-182 of the Sussex County Zoning Code). The property is located at the intersection of Robin Hoods Loop and Maid Marions Retreat Court within the Sherwood Forest North Subdivision. 911 Address: 32172 Robin Hoods Loop, Millsboro. Zoning District: MR. Tax Parcel: 234-23.00-498.00

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 one (1) mail return. The Applicant is requesting 2.3 ft. variance from the 15 ft. front corner yard setback requirement from Robin Hood's Loop for an existing carport.

Ms. Candice Kinsler and Mr. Christopher Kinsler were sworn in to give testimony about their application.

Ms. Kinsler testified that the carport is existing and the Applicants would like to enclose it; that the property is unique; that their property is a corner lot; that they bought the property “as is”; that the Applicants are expanding their family unexpectedly; that the Applicants plan to use the enclosed carport as an office / extended den; that she works from home primarily due to Covid-19 and due to her difficulties with her pregnancy; that the front yard is unbuildable due to the existing trees; that the homeowner association requires approval before removing trees more than 6 inches in diameter; that the Applicants intend to put up three (3) walls on the carport rather than purchasing a new home; that the property is served by septic but not well; that there are no propane tanks on the property; that there is no obstruction to the roadway by enclosing in the carport; that their third bedroom which is currently their home office will be turned into their nursery; that it is 12.7 ft. from

their property line to the roadway; that there is a drainage ditch between the carport edge and the road, which is on HOA land, and is about 5-6 ft. wide; that the carport would be about 15 ft. from the edge of the road; that enclosing the carport will not affect their ability to park on the property; and that they purchased the property on July 3, 2017.

Mr. Kinsler testified that the septic system is located near the deck; that, due to their septic placement, the Applicants cannot add onto the rear of their home; that the Applicants are trying to accommodate their needs within their buildable area; that the home does not have a basement or any additional storage area outside of a shed and the attic which is small; that they have the verbal support of their neighbors; that his wife is pregnant; and that they have an eight (8) year old daughter also.

Ms. Norwood stated that the recorded lot may indicate a larger setback; that the recorded plot from 1978 indicated that there is a 30 ft. setback from Robin Hood's Loop to Maid Marion's Retreat Court but the paper maps indicated a 30 ft. setback from Maid Marion's Retreat Court and 15 ft. setback from Robin Hood's Loop; that the carport was constructed 1999 and a CO was issued in 2001 and it was not referred to as a corner lot and with a 10 ft. side yard setback; and that the property was advertised as a corner front yard lot.

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

Mr. Williamson closed the public hearing.

Mr. Warfel moved to approve Case No. 12665 for the requested variance, pending final written decision, for the following reasons:

1. The property has unique conditions due to the exceptionally small buildable area;
2. That, due to the physical conditions, the property cannot be developed in strict conformity with Sussex County 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 Applicants;
4. The variance will not alter the essential character of the neighborhood nor substantially or permanently impair the appropriate use or development of adjacent property nor be detrimental to the public welfare; and
5. The variance represents the minimum variance necessary to afford relief.

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

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

Case No. 12666 – Gary Alexander seeks a variance from the side yard setback requirement for a proposed structure (Sections 115-25, 115-183, and 115-185 of the Sussex County Zoning Code). The property is located on the west side of Sussex Road within the Indian River Acres Subdivision. 911 Address: 30143 Sussex Road, Dagsboro. Zoning District: AR-1. Tax Parcel: 134-7.00-34.00

Mr. Phillips 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 (1) mail return. The Applicant is requesting a 4 ft. variance from the 5 ft. side yard setback requirement on the south side for a proposed shed.

Mr. Gary Alexander and Ms. Laura Alexander were sworn in to give testimony about their application.

Ms. Alexander testified that the Applicants live on a canal; that the Applicants had to replace their bulkhead due to erosion; that the shed previously sat on a concrete pad which was removed as part of the bulkhead improvement; that the Applicants also had to remove a portion of their deck to aid in repairs; and that the Applicants have a davit which they use to remove small water crafts on the other side of their property and the davit had to be removed as well.

Mr. Alexander testified that the shed will be 5 ft. off of the rear property line but will need a side yard variance; that they would like the shed in its former area so that it is accessible from the dock; that the old shed has been removed; that he was unaware of the rear yard setback until he applied for a permit for the replacement deck; that the shed will have vinyl siding and he would only need 1-2 ft. to clean the rear of the shed; that there is no grass to be tended to near the shed; that his neighbor uses that area for crab pot storage; that he could place the shed 2 ft. off the property line as the previous shed was that distance also; that he cannot place the shed on the north side due to the need for access to the shed from the dock; that they store their boat equipment on the other side of the lot; that their HOA follows Sussex County regulations; that the prior shed measured 12 feet by 12 feet and the new shed measures 8 feet by 14 feet; that the shed will be placed on a timber and gravel bed rather than a concrete pad; that the concrete pad had to be removed as part of the bulkhead replacement; that the shed will have a ramp attached on the east end (road facing); that they have support from their neighbor; that the majority of their neighbors are seasonal residents; that they also have an irrigation system on the side of their property where the davit is located; that he was told he needed to move his deck 10 ft. off of the property line prior to construction; and that he was not aware that replacing the shed would be an issue.

Mr. Sharp stated that the Board cannot consider the request for the deck expansion to the rear yard as the Application was only advertised for the side yard variance and that the Applicants would have to reapply for the rear yard variance for the deck.

Mr. Phillips stated that the request presented tonight is only for the side yard variance as the rear yard variance was not advertised for the public hearing on 3/7/2022 as this variance need was

only discovered the week prior.

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 with modification of the shed distance of 2 ft. from the side property line for Case No. 12666 for the requested variance, pending final written decision, for the following reasons:

1. The variance will not alter the essential character of the neighborhood nor substantially or permanently impair the appropriate use or development of adjacent property nor be detrimental to the public welfare; and
2. The variance, as modified, represents the minimum variance necessary to afford relief.

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

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

Case No. 12667 – Margaret Parker seeks variances from the rear yard setback requirement for proposed structures (Sections 115-25 and 115-183 of the Sussex County Zoning Code). The property is located on the east side of Polly Branch Road approximately 339 ft. northeast of Lighthouse Road (Rt. 54). 911 Address: 31621 Polly Branch Road, Selbyville. Zoning District: AR-1. Tax Parcel: 533-17.00-89.00

Mr. Phillips presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application and zero mail returns. The Applicant is requesting a 9.8 ft. variance from the 15 ft. rear yard setback for proposed steps, an 11.4 ft. variance from the 15 ft. rear yard setback for a proposed HVAC unit, and a 12.5 ft. variance from the 15 ft. rear yard setback for a proposed manufactured home.

Mr. Phillips stated that the front steps shown on the survey would be turned to comply with code per Oakwood Homes, the manufacturer.

Mr. James Jones and Ms. Yvonne Jones were sworn in to give testimony about the application.

Mr. Jones testified that they are presenting on behalf of his grandmother; that his grandmother has owned the property since 1968; that the current home is unlivable and needs to be replaced; that the neighbors all have modern homes and they do not want her property to be an eyesore; that there is no well or septic system; that the home will be in the same location as the prior home; that he has

removed the trees in the front yard of the property; that all neighbors are in support of this new mobile home; and that the front steps will be turned but the rear steps will not be turned due safety issues.

Ms. Jones testified that the current home is unlivable; that that the existing home is a 2001 mobile home; that Ms. Parker's son passed away and he was helping her maintain the property prior to that; that Ms. Parker cannot maintain her property at 94 years old; that this is a hardship at this point; that they would put a new mobile home measuring 16 feet by 76 feet; that the existing home measures 14 feet by 70 feet; that there are few mobile homes available and affordable; that the home they intend to place has been on hold for them since November; that they intend to return Ms. Parker back to her normal life once the new mobile home is placed; that they have looked into numerous other options but they are not feasible; that, due to Ms. Parker's mobility issues, this size mobile home is necessary to prevent falls; that the home will be placed in the same footprint except for the additional square footage; that the lot is unique; that another manufactured home cannot be placed on the lot; and that the property has previously had 3 other manufactured homes.

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 Case No. 12667 for the requested variances, pending final written decision, for the following reasons:

1. That, due to the physical conditions, the property cannot be developed in strict conformity with Sussex County Zoning Code and the variances are necessary to enable the reasonable use of the property;
2. The variances will not alter the essential character of the neighborhood nor substantially or permanently impair the appropriate use or development of adjacent property nor be detrimental to the public welfare; and
3. The variances represent the minimum variances necessary to afford relief.

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

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

ADDITIONAL BUSINESS

There was no additional business.

Meeting adjourned at 8:26 p.m.