

MINUTES OF MAY 16, 2022

The regular meeting of the Sussex County Board of Adjustment was held on Monday, May 16, 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, 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, and Ms. Amy Hollis – Recording Secretary.

The Pledge of Allegiance was led by Mr. Williamson.

Motion by Mr. Hastings, seconded by Mr. Warfel and carried unanimously to approve the agenda. Motion carried 5 – 0.

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

Motion by Mr. Warfel, seconded by Mr. Chorman and carried unanimously to approve the Minutes for the March 21, 2022, meeting. Motion carried 5 – 0.

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

Motion by Mr. Warfel, seconded by Dr. Carson and carried unanimously to approve the Findings of Facts for the March 21, 2022, meeting. Motion carried 5 – 0.

The vote by roll call; Dr. Carson – yea, Mr. Chorman -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. 12690 – Christopher at the Townes at Winward Village, LLC seek variances from the minimum lot width requirement. (Section 115-34 of the Sussex County Zoning Code). The property is located on the west side of Kent Avenue approximately 0.03 miles from Westway Drive. 911 Address: 33309 Kent Ave., Bethany Beach. Zoning District: MR. Tax Parcel: 134-17.11-6.00

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received one (1) letter in support of, and 26 in opposition to the Application and zero mail return. The Applicant is requesting a 65.49 ft. variance from the required 150 ft. lot width requirement for

proposed Lot 3, a 66 ft. variance from the required 150 ft. lot width requirement for proposed Lot 2, and a 74 ft. variance from the required 150 ft. lot width requirement for Proposed Lot 1.

Mr. Ronald Sutton was sworn in to give testimony about this application.

Mr. Sutton testified that he is a professional engineer in Delaware retained by the Applicant; that he has been working on this project with his client for some time; that, in December 2021, the Applicant submitted a plan for ten (10) condos on the Property; that, in early 2022, the Applicant received an unfavorable recommendation from the Planning and Zoning Commission so the Applicant withdrew the application prior to a hearing before County Council; that the P&Z recommendation called for a maximum of four (4) lots on this parcel; that, because of the recommendation from the Commission and the feedback from the surrounding neighbors, the Applicant has reduced its proposal to three (3) fee simple lots; that, after submission of the subdivision plan, the Applicant learned that the lot width requirement for these lots is 150 feet; that currently within Sussex County there are very few roads that are not numbered; that the Property fronts on Road 361; that the majority of unnumbered roads are subdivision streets; that they were unaware of the lot fronting on a numbered road minimum lot width condition prior to the submission of the subdivision application; that they are requesting the variance due to those unique qualities of the property and so they can create three (3) smaller lots; that, without the variances, the property will remain a motel or the Applicant will file an application through the Planning and Zoning Commission for a four (4) unit condo regime; that the Applicant feels the public comment was that they do not want condominiums next to them, even though there are adjacent condos already existing; that the three (3) smaller, fee simple lots would be a better option; that his client purchased the motel on 2021, with the preferred intention of placing 10-11 condos on the property; that, if the Applicant has to go with the four (4) condo unit option, the Applicant will but will worry about that option later; that one lot will not work for their proposal; that the motel is run-down and would be costly to repair; that the motel sits about 3 ft. off the rear property line; that the existing motel is a single story structure on this property which also has paving and numerous smaller structures; that the Applicant would use the existing driveways for the three (3) proposed single family units; that the variances are simply for the road frontage; that the only zoning requirement they do not meet is the footnote requirement of 150 ft. lot frontage on lots fronting on a numbered road; that this would not change the essential character of the neighborhood as there are a host of lots to the north of this one that have less than 150 ft. of road frontage; that there are lots ranging in many different size frontages from 60.5 ft. to 103 ft. surrounding this property on numbered roads; that the Applicant is trying to fit the character of the neighborhood and appease the current residents; that the requested variances are the minimum variances necessary; that the minimum lot square footage is 10,000 sf. and the lots being requested are 40% larger than that; that the proposed lots exceed the minimum lot area and depth; that there was a newspaper article published in May that was an incorrect assessment of their goal and, after speaking with the author, it has since been retracted and a letter of support submitted for this application; that he has not researched the lots near this one to see if they created were prior to 1964; that they would potentially be building three (3) 3,000 sf. homes of higher-end quality; that the letter of support and retracted news article are from an adjacent neighbor; that they are proposing three (3) lots to be sold separately with builder tie-in; that the homes built on the lots will be custom homes; that one (1) lot would have its own driveway and the other two (2) lots would have a shared driveway; that they would be using existing driveway accesses to limit the

impact; that the only additions would be two (2) additional meters and two (2) additional sewer cleanouts; that the driveway curls around and has a double entrance; that there would be an easement to allow one property entrance; and that the motel has not been functioning for a few years.

Mr. Rick Normoyle was sworn in to give testimony about this application.

Mr. Normoyle testified that he is the Vice President of Sales and Marketing for the Christopher Company; that he has been a part of this project since its inception; that the parcel is unique as it is tucked in next to Sea Colony; that, at this point, when you drive by the motel, it is a dilapidated property with doors that have been kicked in and disarray within the rooms inside; that the exterior is unkempt; that, as a company, they target properties in need so that they can make their mark and improve upon the area; that, in trying to keep with the neighborhood, they previously looked to match with the townhomes nearby but, after a town hall they hosted for the adjacent property owners and feedback received from 20-25 individuals, they decided to alter their proposal before the Planning and Zoning Commission; that they reduced the number of units, adjusted parking, and added landscaping; that that project came to a halt due to it not fitting the character of the community of Bethany Beach; that they showed other townhomes that they built off Route 54 and in Fenwick Island; that they have created a couple of single family dwelling concepts with 3,000 to 4,000 square foot homes that do not have to be just vacation homes but have first-floor living; that these homes more represent the current homes in Bethany Beach; and that the proposed is a night and day difference from what is currently on the property.

Mr. Sutton testified that they received a copy of Mackenzie Peet's opposition letter; that the letter states they are asking for one variance but they actually seek three (3) variances; that the letter states what they are proposing does not fit the character of the neighborhood but there are lots of similar sizes existing; that the letter also references the Planning & Zoning Commission's recommendation for MR, four (4) units per acre density that is permitted; that the property is large but does not have the road frontage they need to create three (3) lots with 150 ft. frontage; that they have twice the depth required and are proposing 40% more square footage of lot size than what is required; that the area is there but they are just restricted by the road frontage; that Kent Avenue was not a numbered road in 1964 as referenced by the code; that he traced back on older maps to when Kent Avenue was not a numbered road; that, if the purpose of the numbered road condition was to limit entrance points on main roads, then they are functioning within that purpose by using existing entrances; and that he called and spoke with staff at Planning and Zoning for clarification on the "as revised" notation.

Mr. Sharp noted that the road requirement in the Zoning Code chart is "as revised."

Mr. Sutton testified that he understands the traffic concerns and that the road is busy during the summer months; that they will not be changing any access points to the property; that they will actually be removing a lot of pavement and improvements that have been done to the property; that they will have less impervious surfaces and drainage will be improved; that currently there is a delapidated building with failing gutter systems; that there are swales on each side of the property; that less runoff will come from this property due to the reduced impervious surface area; that they conducted a survey of the trees on the property and, due to existing buildings, are able to

keep as much as possible; that they may only need to remove a few small trees; that the lot shape has created the practical difficulty because they have the area, just not the frontage required, to create the three (3) lots; and that they meet the code absent the caveat of the fronting on a numbered road.

Mr. Nurmoye testified that the article referenced earlier could not be amended prior to tonight's meeting, as it stated that they were still proposing to build townhomes; that, when the motel was functioning it had fourteen (14) active rooms with a large parking lot; that they had no plans to change the current driveway formations; that the motel's lack of operation pre-dates Covid; that they had gone from eleven (11) units to ten (10) and now to three (3); that the variances are the minimum variances; that they are looking at the surrounding area and made a proposal based on the product in that area; that he does not see what is proposed as a hindrance for drainage compared to what is currently there; that there are lots on Jefferson that have taller homes on 50 ft. wide lots with drive under homes; that the existing motel is 3 ft. off the rear property line; that they will not be removing all the trees, as they have talked about strategic placement of the homes, to keep as much in place as possible; and that using Google image you can see all the impervious surface area at the front of the property.

Mr. Thomas Fise was sworn in to give testimony in opposition to the Application.

Mr. Fise testified that he and his wife have owned an adjacent property for thirty-two (32) years; that their property, which is located on Argyle Lane, is 20 ft. from the proposed lot; that they have numerous individuals in the audience who live in the neighborhood; that they submitted their opposition as well as a petition against this project through Mackenzie Peet, Esquire; that the same people present today were present in January for their conditional use hearing, only to find that the application was withdrawn by the Applicant just before said meeting; that the limitations of this property were made to clear to the current owner when purchased; that the traffic problems in the area are profound; that this property is almost directly across the street from the entrance to Sea Colony; that, prior to the Planning and Zoning Commission hearing, there were parts of the property that were physically removed, such as the floors removed by the prior owners; that the Application was filed as a variance but noticed as variances publicly; that, in order to do as the Applicant is requesting, requires three (3) variances; that the lots in the immediate vicinity have minimum lot sizes ranging from 92.5 ft. up to 460 ft.; that there is one (1) lot that fronts on Kent Avenue that is 85 ft. of frontage; that they are not aware of any lot that has 60 ft. frontage; that, should this be approved, each of these lots would be smaller than that of what is currently existing on Kent Avenue; that the property could be developed in a number of other ways with no variance for one lot or with less variances needed for smaller lots; that substantively and procedurally they urge that the variance be denied in order to preserve the essential character of the neighborhood; that above it all it seems that the Applicant wishes the code were different than what it is; that he would not oppose a two (2) lot subdivision; that they are prepared to combat the proposal of a four (4) unit condo should they need to; that he would not be able to say he would not oppose the four (4) unit condo; that he is clarifying that he stated no 60 ft. lots front on Kent Avenue and the lot they showed is not on Kent Avenue; and that they made the distinction between the neighborhood on Kent Avenue and the neighborhood on adjoining streets are very different.

Mr. Andrew Beck was sworn in to give testimony in opposition to the Application.

Mr. Beck testified that, since 1976, he has been in the area of the proposed lots; that he has an extensive history within the neighborhood; that the couple who owned the motel, Horace and Sally Littleton, were great friends of theirs; that, since 1976, he has worked in construction and land development, so understands the process; that he has worked between Florida and Massachusetts; that he retired here two (2) years ago and Evergreen Homes, a competitor of the Applicant, has been making their lives miserable by purchasing up lots in the area; that they are clear-cutting the lots and filling them; that there have been drainage issues recently due to construction; that they have had a huge problem with builders as of late; that he appreciates them proposing an offer of much less than originally proposed; that he is visually impaired and his wife looked up the information on this proposal for him; that he called Planning and Zoning for clarification on the Application; that the Planning and Zoning Commission is backed up 8-12 months for hearings; that, if this was approved, they would be able to start immediately rather than wait; that the people who live here, and he has been a resident since 1961, would not see 3,000-4,000 square foot homes as cottages, rather they see developers filling the building envelopes completely; that they are homes that look like they were printed from a 3-D printer and placed on the site; that the homes they produce do not fit the character of the neighborhood, which are one (1) story homes that are low to the ground; that the developers are removing all the trees and the name should be changed from Ocean Pines Lane to Ocean Pineless Lane; that he is ready to sell his retirement home due to the changes in this neighborhood; that the former owner of the motel applied for and received a PPP Loan from the Federal Government in 2020; that he would not oppose two (2) homes being placed with a restriction on tree removal; that the Applicant paid 1.2 Million Dollars for the lot; that he has been through the Code several times and has never seen where it states that a variance should be granted because the owner paid too much money for the land; and that he would ask that the Application be rejected.

Mr. Nurmoye testified that he understands the frustrations which seem to be more directed at Evergreen and how they have changed his feel for the area; that they are not the same builder and their product is different; that he has driven past the homes they speak of and see how they fill up the lot; that what is proposed is completely different than what the opposition is referencing; that this is not a piling product as the lots are too wide and they would look out of place; that they have some conceptual drawings; that the conceptals are slab or crawl space design, not pilings; that the motel has not been actively rented in the past few years, to clarify; that time is not the issue for them, but the feedback which they are concerned with from the local neighbors; that they are based out of Virginia but have been building in Sussex County for twelve (12) years; that they know the market well and have placed 300-400 homes on the market; that they believe it to be a great addition to the surrounding area; and that they are not filling the building envelope but will have 50-60 ft. open behind each dwelling.

Mr. Sutton testified that there is a lot on Jefferson Bridge Road that is 60.85 feet wide.

Mr. Fise testified that there is no 60 foot wide lot on Kent Avenue and that Kent Avenue is a different type of road from other roads in the area.

The Board found that no one appeared in support of and 4 people appeared in opposition to the Application.

Mr. Williamson closed the public hearing.

Mr. Chorman moved to deny Case No. 12690 for the requested variances, pending final written decision, based upon the record, for the following reasons:

1. The exceptional practical difficulty was created by the Applicant.

Motion by Mr. Chorman failed for a lack of a second.

Mr. Warfel moved to deny Case No. 12690 for the requested variances, pending final written decision, for the following reasons:

1. The exceptional practical difficulty was created by the Code and not the uniqueness of the property.

Motion by Mr. Warfel, seconded by Mr. Chorman, carried unanimously that the **variances be denied for the reasons stated**. Motion carried 3 – 2.

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

Case No. 12691 – Mary A. Sciole and Daniel M. Sciole seek a variance from the maximum fence height requirement for a proposed fence. (Sections 115-25, 115-184, and 115-185 of the Sussex County Zoning Code). The property is located on the corner of Balsa Street and Sally's Drive within the Quaint Acres Subdivision. 911 Address: 37707 Balsa Street, Ocean View. Zoning District: AR-1. Tax Parcel: 134-16.00-829.00

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received three (3) letters in support of, zero in opposition to the Application, and zero mail returns. The Applicant is requesting a 2.5 ft. variance from the 3.5 ft. maximum height requirement for a proposed fence.

Mr. Daniel M. Sciole and Ms. Mary A. Sciole were sworn in to give testimony about their application.

Ms. Sciole testified that the Applicants purchased the property in 2015 and the pool was already installed in its present location; that they have a unique property of a corner lot where the main width of the house is on Sally Drive as well as the front door; that Balsa Street has the garage and back entrance; that the former owners got a variance to place the pool; that the existing fence consists of wood pallets with an extra foot of lattice above it; that the fence is splintering and nails are coming out of it and it is unsafe; that there are more children in the neighborhood now; that she can see that animals could get in or over the fence as it is now; that a neighbor told her that the fence as it currently does not meet code; that they want to place a 6 ft. fence rather than replace the 5 ft. fence for added safety; that they are looking to improve the neighborhood and its safety; that the adjacent neighbor is supportive; that they obtained letters from other neighbors in support; that the fence will be constructed of a vinyl material; that they do not need HOA approval; that there will be no visibility issues from the road; that their property is a double corner lot; that the

placement of the pool was determined by the septic at the time, so she believes; that the property line is about 15 ft. from the edge of paving on Balsa Street; and that the fence will be located on the property line.

Ms. Norwood confirmed that the property is considered a lot with a double front yard and a corner front yard.

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 approval Case No. 12691 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 represents the minimum variance necessary to afford relief.

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

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

RECESS – 7:22 – 7:28

Case No. 12692 – Joseph P. Wood, Sr. seeks a variance from the rear yard setback requirement for a proposed addition (Sections 115-183 and 115-185 of the Sussex County Zoning Code). The property is located on the east side of Brittingham Road approximately 0.6 miles from Whitesville Road (Rt. 30). 911 Address: 36394 Brittingham Road, Delmar. Zoning District: AR-1. Tax Parcel: 532-15.00-6.00

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application and zero mail return. The Applicants are requesting a 2 ft. variance from the 20 ft. rear yard setback requirement for a proposed attached garage.

Mr. Joseph P. Wood, Sr., and Ms. Barbara Wood were sworn in to give testimony about the Application.

Mr. Wood testified that he wants to build an addition to his home; that he could not afford to do this when he purchased the property and moved here from Caroline County; that he came up with the plan and acquired the permit which indicated a 20 ft. setback; that he decided to double-check the distance which ended up being 17.5 ft.; that he inquired with the owners of the property behind him as to if they had issue and they told him about the variance process; that he applied for 2 ft. but he probably needs 4 ft. in actuality; that it is just a field behind his property; that the new

house sits in a different location than the original and they are adding onto the rear; that the proposed addition will be 17.5 ft. off the rear property line; that he has not spoken with the neighbor across the street; that there is a house now on the property next to them but they cannot see the addition from their property; that there are no steps coming off of the addition; that the side and rear will be solid, with windows, and a garage door facing towards the road; that the septic restricts his placement of the addition; that the way the lot is shaped makes it difficult to build an addition; that the addition will 20 feet by 20 feet; that he wants to move his tools from the existing garage to the new one so he can park his truck in it; that a smaller building would still be close to the property line; and that he has a blacktop driveway which the addition will butt up to.

Ms. Wood testified that the property is unique; that the rear property line is at an angle that will not allow the proposed building to stay 20 ft. off of the rear property line; that it is the rear corner of the proposed building that is 17.5 ft. off of the property line; that the field is currently tilled by the Workman family and cannot be tilled any closer than 40 ft. to the proposed addition; that Mr. Workman has no objection and advised them about the variance application; that the property has been this way since the 1930s; that it will conform to the neighboring properties; that they will need a 4 ft. variance which is the minimum; and that the only neighbor close to them is Mr. Workman's daughter.

Mr. Jeffrey Workman was sworn in to give testimony in support of the Application.

Mr. Workman testified that he has his family own the adjacent property; that it is his him, his mother, and brother; that his brother farms the lot; and that they do not oppose Mr. Wood's application.

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

Mr. Williamson closed the public hearing.

Dr. Carson moved to approve Case No. 12692 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. 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
3. The variance represents the minimum variance necessary to afford relief.

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

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

Case No. 12693 – Joseph T. Ellis Jr. seeks a variance from the front yard setback requirement for

a proposed structure (Sections 115-34, and 115-182 of the Sussex County Zoning Code). The property is located at the south side of Oak Road within the Keen-Wik Subdivision. 911 Address: 37664 Oak Road, Selbyville. Zoning District: MR. Tax Parcel: 533-19.12-26.00

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received five (5) letters in support of, zero in opposition to the Application and zero mail returns. The Applicant is requesting 8 ft., 10 ft., and 9 ft. variances from the 30 ft. front yard setback requirement for a proposed dwelling.

Mr. Joseph T. Ellis, Jr., was sworn in to give testimony about the Application.

Mr. Ellis testified that the existing front of the house is 19.9 ft. from the road; that the existing porch supports are 15.9 ft. from the front of the road; that the existing home was built on a slab in 1980; that area of Keen-Wik is prone to flooding from the canal more now than when the existing home was built; that the property is unique because his rear property line extends out into the canal; that the front of the property is on a cul-de-sac; that the lot is shallow and constrains him with the buildable area; that the other properties on the same side of the street have deeper lots away from the cul-de-sac; that he is left with a challenging situation due to the location of his property; that he is not trying to rebuild the whole property but is trying to preserve some of the back yard; that the current home is about 28 ft. deep and the proposed home will be about 32 ft. deep with an 8 ft. porch in the rear which would leave him with about 15 ft. of back yard; that the dimensions of his lot only allow for so many options; that he could place a tiny home on the lot and be in compliance but it is not practical; that he did not create the exceptional practical difficulty as he did not determine the property lines or place it on a cul-de-sac; that he loses about 10-12 feet of buildable area in the front yard due to the cul-de-sac's curve; that the neighbors on each side and across the street from him are in support of the request; that the proposed home may either have a crawl space or possibly be elevated to have a first floor garage in an attempt to maximize space; that the rear and front yard are both of lower elevation; that the proposed house will consist of about 2,750 square feet; that he has not designed the home yet; that the variances will determine his design but will be fitting of the neighborhood; that he is trying to be more in compliance than the existing home but not be in the canal; that he gets flooding from the front and rear yard; that this includes all steps and accessories to the home in the building envelope; that there is a bulk head at the rear of the property; that it is a nice property in that it backs up to the marsh; that he does not need HOA approval and they are in the process of changing regulations to their covenant to match the County setback requirements; that he does not have a well or septic; and that there is no gap between the property line and edge of paving.

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. 12693 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique conditions due to the unique front and rear property lines;

2. 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;
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 and represent the least modifications to the regulation at issue.

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

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

Case No. 12695– Sea Air Village seek variances from the separation distance requirements for proposed structures (Sections 115-25 and 115-172 of the Sussex County Zoning Code). The property is located on the corner of Center Avenue and Skyview Street within the Sea Air Village Manufactured Home Park. 911 Address: 19909 Center Avenue, Rehoboth Beach. Zoning District: AR-1. Tax Parcel: 334-13.00-310.00-3377

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 153 mail returns (580 notices mailed). The Applicant is requesting a 1.8 ft. variance from the 20 ft. separation distance requirement for a proposed manufactured home on Lot 55 from a shed on Lot 52 and a 1.4 ft. variance from the 10 ft. separation distance for a proposed shed on Lot 55 from a shed on Lot 52.

Ms. Karen Lashua was sworn in to give testimony on this application.

Ms. Lashua testified that she is representing Aimee Bennett for this application; that they are applying for a variance on 19909 Center Avenue, Rehoboth Beach; that the variances are for the south side of the shed where the separation distance is only 8.6 ft. from the neighbor's shed and the south side of the home where the separation distance is only 18.2 ft. in order to place a manufactured home with the dimensions of 28 feet x 60 feet with a shed; that the uniqueness of the northwest front side of the property creates a challenge placing the manufactured home as it truncates the lot causing the home to be placed farther back along the site to maintain street side setbacks; that the northeast front side of the home must allow room for the stairs into the dwelling and parking; that the only placement for shed placement is at the rear of the home; that in both instances minimum separation is unable to be achieved because a neighbor's shed sits over the lot line; that the property is unique as it is shaped at an angle and surrounding lots are uniquely narrow; that the lot was laid out with others in the community in the 1930s and 1940s; that the lots are small in comparison with the size of modern size manufactured homes and this lot has a peculiar front / street facing angle; that the homeowner has selected a home of normal size and length based on what is currently available on the market but it is still unable to be placed on the lot with the required setbacks; that the irregular shape makes it difficult to place a new manufactured home on

the property consistent with others in the neighborhood and maintain compliance with the Sussex County Zoning Code; that, due to the uniqueness of the property, it cannot be developed in strict conformity with Code; that the proposal is to place a normal and standard sized shed that is consistent with other sheds in the community but they are unable to do so without violating the separation distance requirements between the shed and neighboring shed which sits on the lot line; that, due to the uniqueness of the property and physical circumstances of how neighboring lots have been developed, there is no other placement within the lot that will allow this standard sized manufactured home to be placed without a separation distance variance; that both variances are required to enable the reasonable use of the property; that this has been partially created by the Applicant; that the need for storage is great; that the variances have been requested to keep uniformity with the site and the home in the community; that the exceptional practical difficulty was not created by the Applicant because the property has a unique shape and the adjoining properties are uniquely narrow causing development of adjacent structures to be nearer to lot lines, limiting the buildable area thereof; that it appears impossible for a home to be placed on the property without violating the separation distance requirements; that the exceptional practical difficulty was created by the unique conditions of the property and the development of adjacent lots; that the variances will not alter the essential character of the neighborhood nor will the variances substantially or permanently impair the appropriate use or development of adjacent property nor be detrimental to the public welfare thereof; that the replacement of new structures in place of prior older structures offers and improvement to the surrounding homes and community; that the variances requested are the minimum variances necessary to afford relief and the least modifications possible for the placement of shed and home on the property; that the lot in question is vacant at the moment; that it is her understanding that there is no other way to place these structures on the lot; that, if the shed on the adjoining lot was placed correctly, they would likely not have needed a variance for this lot; that the property is on city water and sewer; that there is a 1 ft. distance between the shed and the dwelling, both proposed, and the door will be opened on the 8 ft. side of the shed but she is not sure which direction; that she does not foresee a domino effect by granting this variance but that each lot would be evaluated for need of a variance should it be needed; that the shed will be made of wood and can be maintained with the 1 ft. distance between it and the dwelling; and that the shed will be placed on a stone base, as is the standard for all homes and accessory structures.

Ms. Norwood stated that the neighboring shed is over the property line; that staff does not know when the neighboring shed was placed but structures within Sea Air Village which were placed on the lots prior to 2007 were deemed non-conforming.

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. 12695 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique conditions due to the shape of the property;

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 this 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. Hastings, seconded by Mr. Warfel, carried unanimously that the **variances be granted with conditions for the reasons stated.** Motion carried 5 – 0.

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

ADDITIONAL BUSINESS

Meeting adjourned at 8:13 p.m.