

MINUTES OF NOVEMBER 6, 2023

The regular meeting of the Sussex County Board of Adjustment was held on Monday, November 6, 2023, at 6:00 p.m. in the County Council Chamber, Sussex County Administration Office Building, Georgetown, Delaware.

The meeting was called to order at 6:00 p.m. with Chairman Jeffrey Chorman presiding. The Board members present were Dr. Kevin Carson, Mr. John T. Hastings, Mr. Jordan Warfel, Mr. John Williamson, and Mr. Jeffrey Chorman. Also, in attendance were Mr. James Sharp, Esquire – Assistant County Attorney, and staff members Ms. Christin Scott – Planning and Zoning Planner II, and Ms. Amy Hollis – Recording Secretary.

The Pledge of Allegiance was led by Mr. Chorman.

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

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

Motion by Mr. Warfel, seconded by Mr. Hastings and carried unanimously to approve the Minutes for the August 21, 2023, meeting. Motion carried 5 – 0.

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

Motion by Mr. Williamson, seconded by Mr. Warfel and carried to approve the Findings of Facts for the August 21, 2023, meeting. Motion carried 5 – 0.

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

Motion by Mr. Hastings, seconded by Mr. Warfel and carried unanimously to approve the Minutes for the September 11, 2023, meeting. Motion carried 5 – 0.

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

Motion by Dr. Carson, seconded by Mr. Hastings and carried to approve the Findings of Facts for the September 11, 2023, meeting. Motion carried 5 – 0.

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

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

ADDITIONAL BUSINESS

Through Lot Ordinance – Jamie Whitehouse, Director of Planning and Zoning

Director of Planning and Zoning Jamie Whitehouse displayed a presentation regarding the Through Lot Ordinance that passed the County Council on October 17, 2023.

PUBLIC HEARINGS

Case No. 12872 – Rollin and Lisa Bell seek 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 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. Scott presented the case and stated that the Office of Planning and Zoning received three (3) letters in support of, no correspondence in opposition to the Application, and three (3) mail returns. The Applicants are requesting a variance of 4.43 ft. from the 10 ft. front yard setback requirement for a proposed elevator. This Board previously approved a front yard variance for the elevator in 2021 and the Applicants missed the date to ask for a time extension.

Ms. Mackenzie Peet, Esquire, was present on behalf of the Applicants.

Ms. Peet stated that she is representing the Bells; that the Applicants are requesting a variance for a proposed elevator at their property; that they have submitted Exhibits A through G with their application; that the Applicants are submitting additional photos of the property in its current condition; that there is no structure currently on the property; that this property was subject to two previous variance applications; that the Planning and Zoning Commission previously determined that Pierce Avenue is the front yard of the property with a 10 ft. setback requirement and Beach Avenue is considered the corner front; that, on March 20, 2020, the Applicants appeared before the Board of Adjustment for Case No. 12425 requesting variances in connection with the remodeling of the then-existing home; that these requests were approved but have since lapsed as of May 20, 2022; that, on August 2, 2021, the Applicants appeared before the Board of Adjustment for Case No. 12587 requesting variances in connection with the development of a new home after determining that it would be more economical; that these requests were approved and are still valid until October 14, 2024, after receiving a one year time extension on June 20, 2022; that the current variance request is 4.37 ft. from the 10 ft. front yard setback requirement along Pierce Avenue for the proposed elevator; that this requested variance is similar to what was approved in 2020 but is actually less than the

previously approved variance of 5.34 ft.; that, due to an oversight, the Applicants, upon applying for building permits, learned that the elevator related variance had lapsed; that this realization occurred after the existing home had been demolished; that the lapse in approval has caused a significant hardship for the property owners after having already gone through the variance process twice and with DNREC to obtain the necessary approvals; that the materials for the proposed dwelling have already been ordered; that the property's existing constraints make it impossible to design a new home that incorporates the elevator shaft without the requested variance; that it is essential to consider the constraints imposed by DNREC regulations on the property in particular the property is subject to the regulations governing beach protection and the uses of beaches; that there is a four step process with DNREC that the Applicants went through with respect to properties that are subject to this building restriction line and that process limits the buildable area compared to adjacent properties and dictates the placement of the proposed home; that, in this case, DNREC's building restriction line also dictates the placement of the elevator because they have asked that it be placed on the west side of the home to the greatest extent possible; that the decision to build a new home was made in part due to the complexity of reworking the existing structure to meet the DNREC requirements and to incorporate the elevator; that Sections 115-209 and 115-211 of the Sussex County Zoning Code grant the authority to the Board to grant area variances; that no such variance shall be authorized by the Board unless it finds that the Applicants have complied with the five criteria that are set forth in the Code; that the property is unique as it is a long and narrow lot subject to significant DNREC building restrictions, creating a limited and constrained developable area; that the property is adjacent to beaches of the Atlantic Ocean and much of the easterly side of the lot is undevelopable due to the DNREC building restrictions and, as such, the proposed dwelling and elevator must be located towards the western side of the property adjacent to Pierce Avenue; that the Applicants need to construct an elevator for their elderly relatives and for themselves upon use of the home at retirement but are unable to do so within the limited and constrained building envelope; that the property's unique conditions have created the exceptional practical difficulty for the Applicants who seek a reasonable addition of an elevator that this Board had previously approved by a greater deviation than what is requested in this application; that the exceptional practical difficulty is not being created by the provisions of the Code but, due to the uniqueness of the property, the property cannot be developed with an elevator in strict conformity with the Code; that the location in the front of the proposed dwelling is necessary for the reasonable use of the property for a number of reasons; that the first being wheelchair accessibility as the proposed driveway is located along Pierce Avenue and they need proximity from the driveway and parking area to the elevator itself; that the second being visibility in the event of an emergency; that the third is convenience as located to the elevator for accessing and loading things from the car; that the fourth being the aesthetics and architectural integration in making sure that the elevator was not standing out as an eyesore or uncharacteristic with other improvements in the community; that lastly and most importantly being DNREC requiring that the elevator be located as far west as possible; that the exceptional practical difficulty has not been created by the Applicants; that, if granted, the variance will not alter the essential character of the neighborhood or substantially or permanently impair the appropriate use or development of adjacent property or be detrimental to the public welfare; that there was a similar variance request granted by this Board on June 19, 2017, for a front yard setback on Beach Avenue for the entire front of the home and not just an elevator appendage; that the construction

of the proposed dwelling together with the elevator will aesthetically improve the neighborhood and update the property in a manner consistent with the existing dwellings in the community; that there is a recently renovated home adjacent to this property and many other updates to other homes in the community; that there have been no complaints about the proposed location of the elevator; that they have a letter from the homeowners association approving the proposed location; that the variance sought is the minimum variance necessary to afford relief; that the Applicants are seeking to build a reasonably sized elevator to accommodate access to their home; that this request is about a foot less than the previously approved request; that the architect, Becker Morgan, was able to shrink the design for less of an encroachment; that there have been partial permits issued for the foundation only in an effort to keep things moving; that the last time the Applicants were before the Board the elevator was not included in the request which is why they are back; that Pierce Avenue is a lightly traveled road; and that Mr. Bell will be affirming her testimony.

Mr. Rollin Bell was sworn in to give testimony on the Application.

Mr. Bell testified that the statements made by Ms. Peet are true and accurate.

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

Mr. Chorman closed the public hearing.

Mr. Hastings moved to approve the application for Case No. 12872 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique conditions due to being long and narrow;
2. That, due to the physical conditions, the property cannot be developed in strict conformity with Sussex County Zoning Code;
3. The exceptional practical difficulty was not created by the Applicants;
4. The variances will not alter the essential character of the neighborhood; and
5. The variances represent the minimum variances necessary to afford relief.

Motion by Mr. Hastings, seconded by Mr. Warfel, carried that the **variances be granted for the reasons stated.** Motion carried 5 - 0.

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

Case No. 12873 – Sequence Properties, LLC seeks a variance from the side yard setback requirement for a proposed structure (Sections 115-82 and 115-183 of the Sussex County Zoning Code). The property is located on the southwest side of Coastal Highway (Rt. 1) approximately 397 ft. southeast of Sea Air Avenue. 911 Address: 19724 Coastal Highway, Rehoboth Beach. Zoning District: C-1. Tax Parcel: 334-13.00-319.01

Ms. Scott 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 variance of 4.5 ft. from the 5 ft. side yard setback requirement on the north side for a proposed addition.

Mr. Richard Lowrance was sworn in to give testimony for the Application.

Mr. Lowrance testified that, in May of 2021, he appeared before the Board and received approval for a variance; that variance was on behalf of the tenant A Touch of Italy who was seeking approval to expand their kitchen by 13 ft. but remain in line with the existing building; that the variance request was due to the existing building encroaching into the required 5 ft. side yard setback; that the variance request is for 4.7 ft. into the required setback for a distance of 13 ft.; that the Board granted the variance request; that the variance must be acted upon within a two year period; that, in the meantime, the tenant built a different building and, due to supply chain issues, that project took a lot longer than anticipated; that, as the representative of the owner of the property, they did not want the tenant to proceed until they finished that building and received a CO, which they got in late July; that he believed that they had until the end of August to apply for the new building permit for the kitchen expansion; that, when they gave him the paperwork and he was preparing to bring it for a building permit, around August 7th, he noticed that their original approval was August 2nd; that he confirmed with Ms. Norwood that their variance had expired and they would need to seek a new approval from the Board; that the only difference between now and just over two years ago is that, at that time, their immediate neighbor, Outlet Liquors or the group that owns the property that they are a tenant on, Blake Thompson at the last minute filed as objection because he believed there would be more traffic in the restaurant; that this was not be the case but rather they needed to expand the kitchen for packaging takeout business which had increased during the Covid-19 pandemic; that their relationship with that neighbor has greatly improved since then; that the expansion does not affect any of the neighboring properties; that the building was constructed in the 1960s prior to zoning ordinances or their enforcement; that the property is a shopping center connected to another shopping center; and that there has been no change to their proposal that was granted in 2021.

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

Mr. Chorman closed the public hearing.

Mr. Warfel moved to approve the application for Case No. 12873 for the requested variance, pending final written decision, for the following reasons:

1. The property has unique conditions due to its shape and development;
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 variance will not alter the essential character of the neighborhood; and
5. The variance represents the minimum variance necessary to afford relief.

Motion by Mr. Warfel, seconded by Mr. Hastings, carried that the **variance be approved for the reasons stated.** Motion carried 5 - 0.

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

Case No. 12874 – Sea Air Village seeks 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 southeast side of Sea Air Avenue, Lot B21, within the Sea Air Village Manufactured Home Park. 911 Address: 19803 Sea Air Avenue, Rehoboth Beach. Zoning District: AR-1. Tax Parcel: 334-13.00-310.00-3117

Ms. Scott 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 thirteen (13) mail returns. The Applicant is requesting the following variances:

1. 0.8 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing deck on Lot B23 for a proposed HVAC;
2. 0.3 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing manufactured home on Lot B19 for a proposed manufactured home;
3. 4.4 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing manufactured home on Lot B19 for a proposed landing;
4. 3.4 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing manufactured home on Lot B19 for a proposed landing;
5. 8.1 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing HVAC on Lot B19 for a proposed landing;
6. 3.9 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the HVAC on Lot B19 for the proposed manufactured home;
7. 0.6 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing manufactured home on Lot B19 for a proposed manufactured home;
8. 0.9 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing manufactured home on Lot B19 for a proposed manufactured home;

9. 9.3 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing manufactured home on Lot B19 for a proposed shed;
10. 0.1 ft. from the 10 ft. separation distance requirement between accessory structures in a manufactured home park from the existing shed on Lot C20 for a proposed shed;
11. 2.2 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing shed on Lot C20 for the proposed manufactured home;
12. 4.4 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing shed on Lot C22 for the proposed manufactured home; and
13. 3.5 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing shed on Lot C22 for the proposed manufactured home.

Ms. Aimee Bennett was sworn in to give testimony on the Application.

Ms. Bennett testified that she is here tonight requesting variances for this property; that the manufactured home that was on this lot was an aged home with many issues; that the homeowners surrendered the unit to the Applicant and it has since been demolished; that the Applicant is looking to replace it with a comparative unit; that the property is uniquely narrow which creates the challenge of placing the manufactured home and maintaining the separation distance between the homes; that this lot was laid out with others in the community in the 1950s and 1960s prior to the current County requirements for separation distances; that the lot sizes are small in comparison with the size of the manufactured home; that the Applicant has selected a floor plan that is consistent with other neighboring homes in the community but were not able to place it with the build out around the lot; that the Applicant cannot develop in strict conformity with the zoning code; that the Applicant proposes to place a normal width sized manufactured home that is consistent with other homes in the community and a standard sized shed that is also consistent with their community but is unable to do so without violating the separation distance requirements; that the variances are necessary in order to enable reasonable use of the property and without the variances the property cannot be developed; that these special circumstances are not created by the Applicant; that the home on the site was failing and needs to be replaced; that the narrowness of the property and development of neighboring properties presents the practical difficulty; that, when looking at the neighboring lots, there are quite a bit of structures to compete with; that the proposed home will not alter the essential character of the neighborhood but rather will add conformity and not be detrimental to the public welfare of the community; that no one has called in to oppose; that the Applicant hopes this would be a welcome development for the community; that these are the minimum variances needed; that the Applicant has lined up a potential buyer for this unit who is able to accept the additional charge of adding a porch to the unit and allowing them to place the front door on the front of the home as opposed to the side; that, by doing this, the Applicant has eliminated the second set of steps on the side and removed one variance request; that this is not something that the Applicant can do with every home because it is a

substantial cost and the buyer must be able to take on that cost; that the existing home on the lot was a 1976 model that could not be rehabilitated; that these are the minimum variances requested to place a new home on this lot; that the porch will be prefabricated on the unit; that the unit will measure 68 ft. long on the site; that the Applicant will place the manufactured home to the 5 ft. rear setback line for conformity in the community; that, if the Applicant were to place the home more forward, they would still require variances in other locations; that moving the home forward would then truncate the parking area; that, on Lot 22, the bump outs on the shed are rubber made storage closets; that the home on Lot 23 has been demolished and will be replaced with a home that will be set forward on the lot to allow for more room; that the remaining neighboring homes are older; that the shed and HVAC on Lot C20 both encroach over the lot line; and that they no longer need the requested variance for the steps and landing closest to Sea Air Avenue.

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

Mr. Chorman closed the public hearing.

Mr. Williamson moved to approve the application for Case No. 12874 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique conditions due to the narrowness of the lot;
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; and
5. The variances represent the minimum variances necessary to afford relief.

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

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

Case No. 12875 – Sea Air Village seeks 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 northwest side of Center Avenue, Lot C92, within the Sea Air Village Manufactured Home Park. 911 Address: 19994 Center Avenue, Rehoboth Beach. Zoning District: AR-1. Tax Parcel: 334-13.00-310.00-14810

Ms. Scott 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 thirteen (13) mail returns. The Applicant is requesting following variances:

1. 8.3 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing manufactured home on Lot C94 for a proposed shed;
2. 1.1 ft. from the 10 ft. separation distance requirement between structures in a manufactured home park from the existing shed on Lot B93 for the proposed shed;
3. 1.5 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing manufactured home on Lot B91 for the proposed manufactured home; and
4. 5.5 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing shed on Lot B91 for a proposed manufactured home.

Ms. Aimee Bennett was previously sworn in to give testimony on the Application.

Ms. Bennett testified that the lot is uniquely narrow; that this lot was laid out with others in the community in the 1950s and 1960s prior to the building separation distance requirements; that the lots are small in comparison to the modern size manufactured home; that the Applicant has selected a standard size floor plan that is comparable to other new homes in the community but is unable to place it without the required setbacks; that the narrow shape of the lot and the previous build-out of the surrounding adjacent lots makes it difficult to place a new manufactured home on the property; that the site owners are choosing to demolish their home and to replace it with new because the cost of repairs have exceeded the lifespan of the home; that the location they have selected is consistent with the rest of the community but provides more relief than the prior units; that, in altering the placement of the proposed structures in conformity with rest of the community, the Applicant is increasing the separation distances; that, due to the uniqueness of the property, it cannot be otherwise developed without violating the separation distance requirements which have not been created by the Applicant; that these conditions are unique to the property itself and the narrowness of the lot; that Applicant does not anticipate this will alter the characteristics of the neighborhood but rather be an improvement aesthetically and increase the separation distance from that of the previous dwelling; that the Applicant believes that these requests are the minimum variances required to afford relief; that this unit has met its lifespan and needs to be demolished and replaced for the existing homeowners to continue to enjoy the lot; that they have an existing 10' x 10' shed which they have to move to place the new home so they are asking to keep the same size shed; that both the home and the shed are moving forward on the lot more than the previous structures; that the lot previously was a single wide with a bump out whereas the new unit is slightly larger in length and width but there will be no additions to the unit; that the neighbors on the left enticed them to do the upgrades as they have a newer unit and are in support; and that she does not for see Lots B92 or B91 having any issue with the units being separated farther.

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

Mr. Chorman closed the public hearing.

Dr. Carson moved to approve the application for Case No. 12875 for the variances, pending final written decision, for the following reasons:

1. The variances are necessary to enable reasonable use of the property;
2. The variances will not alter the essential character of the neighborhood; and
3. The variances represent the minimum variances necessary to afford relief.

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

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

Case No. 12876 – Sea Air Village seeks 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 southeast side of Center Avenue, Lot D43, within the Sea Air Village Manufactured Home Park. 911 Address: 19887 Center Avenue, Rehoboth Beach. Zoning District: AR-1. Tax Parcel: 334-13.00-310.00-3041

Ms. Scott 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 thirteen (13) mail returns. The Applicant is requesting the following variances:

1. 1.2 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing HVAC on Lot D41 for a proposed manufactured home;
2. 6.4 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing manufactured home on Lot D41 for a proposed shed;
3. 0.1 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing shed on Lot E42 for a proposed manufactured home;
4. 3.4 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing manufactured home on Lot E44 for a proposed shed;
5. 1.5 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing shed on Lot E44 for a proposed manufactured home;
6. 6.4 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing manufactured home on Lot E44 for a proposed

- manufactured home;
7. 2.5 ft. from the 20 ft. separate distance requirement between structures in a manufactured home park from the existing shed on Lot 46 to the proposed manufactured home;
 8. 13.9 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing shed on Lot D45 for a proposed manufactured home;
 9. 5.2 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing cover on Lot D45 for a proposed manufactured home;
 10. 2.8 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing porch on Lot D45 for the proposed manufactured home;
 11. 5.7 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing porch on Lot D45 for the proposed HVAC; and
 12. 2.6 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing porch on Lot D45 for a proposed manufactured home.

Ms. Aimee Bennett was previously sworn in to give testimony on the Application.

Ms. Bennett testified that the shed on Lot E46 has since been demolished so that separation distance is no longer needed; that the unique physical circumstances that exist on this particular site include irregularity and narrowness or shallowness of the lot; that the Applicant asks to place a similar home to other manufactured homes in the community but cannot otherwise develop the lot without the variances do to the unique characteristics; that the community was built prior to the enactment of the Sussex County Zoning Code so it is difficult to meet all of the requirements at all times; that this would be the minimum required relief needed in order to allow them to replace the home; that the prior home was an older failing home in the community that has since been demolished; that the prior home was surrendered to the community as the title owner had passed and no one wanted to take care of or rehabilitate the house; that replacing it with a house as proposed will not alter the characteristics in the neighborhood nor will it impair the appropriate use or development of the adjacent properties; that the difficulty the Applicant is having is related to the build-out mostly around the property itself; that the Applicant hopes it will be allowed to replace the 1969 home with a new one so that the Applicant can continue to utilize the property; that the structure has not been replaced yet but the prior home has been demolished; that the Applicant is still currently dealing with challenges from the manufacturer; that the Applicant has been promised that there is a new line coming out but they are not able to offer what they refer to as a reverse aisle, meaning that one set of doors would be on one side of the home and the other set of doors would be on the back side, which means that they would be causing problems on both sides of the home instead of just one; that this is what they have available right now; that the neighbors have not mentioned the proposal; that the front porch with the steps is a \$6,000.00 option which is not feasible for all properties; that the Applicant will be moving the parking

over as they always provide two parking spaces; and that, at the time the survey was done, the old unit had already been demolished.

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

Mr. Chorman closed the public hearing.

Mr. Hastings moved to approve the application for Case No. 12876 for the variances, pending final written decision, for the following reasons:

1. The property has unique conditions due to the shape and narrowness;
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; and
5. The variances represent the minimum variances necessary to afford relief.

Motion by Mr. Hastings, seconded by Mr. Williamson, carried that the **variances be granted for the reasons stated**. Motion carried 5 - 0.

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

Case No. 12877 – Sea Air Village seeks 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 northwest side of Atlantic Avenue, Lot E46, within the Sea Air Village Manufactured Home Park. 911 Address: 19976 Atlantic Avenue, Rehoboth Beach. Zoning District: AR-1. Tax Parcel: 334-13.00-310.00-5230

Ms. Scott 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 thirteen (13) mail returns. The Applicant is requesting the following variances:

1. 1.7 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing manufactured home on Lot E48 for a proposed manufactured home;
2. 4.5 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing HVAC on Lot E48 for a proposed manufactured home;
3. 8.5 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing HVAC on Lot E48 for a proposed landing and

- steps;
4. 5.7 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing manufactured home on Lot E48 for a proposed landing and steps;
 5. 5.6 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing manufactured home on Lot E48 for a proposed landing and steps;
 6. 2.0 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing shed on Lot E48 for a proposed landing;
 7. 2.4 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing shed on Lot E48 for a proposed manufactured home;
 8. 7.1 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing manufactured home on Lot E48 for a proposed shed;
 9. 1.4 ft. from the 10 ft. separation distance requirement between accessory structures in a manufactured home park from the existing shed on Lot E48 for a proposed shed;
 10. 0.3 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing manufactured home on Lot D45 for a proposed shed;
 11. 4.6 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing manufactured home on Lot D45 for a proposed manufactured home;
 12. 6.8 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing cover on Lot D45 for a proposed manufactured home;
 13. 5.4 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing shed on Lot D45 for a proposed manufactured home;
 14. 2.9 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing shed on Lot E44 for a proposed manufactured home; and
 15. 6.1 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing ramp on Lot E44 for a proposed HVAC.

Ms. Aimee Bennett was previously sworn in to give testimony on the Application.

Ms. Bennett testified that the Applicant seeks variances for a home that was surrendered to the community that is not able to be rehabilitated; that the prior home was a 1966 unit that had roof failure; that the Applicant must replace the unit in order to recover the lot use; that the lot is uniquely narrow and irregular; that the shallow lot and topographical issues create physical conditions that are peculiar to this particular property and create the exceptional practical difficulty; that the Applicant is

unable to otherwise develop this lot; that the Applicant is asking for the minimum required relief in order to place the home; that the Applicant is placing a home that is standard with other homes in the community but are unable to do so due to the build-out around the site itself; that the exceptional practical difficulty is not being created by the Applicant; that the variances will not alter the essential character of the neighborhood but will rather improve it as the unit that was there is uninhabitable; that the prior home was removed a few weeks ago; that the shed is necessary otherwise the homeowner will have storage issues outside on the lots; that the Applicant installed a hardscape barrier around the homes which seems to work well and still allow enough access to get in between the home and shed for maintenance; that the cover is a small carport but sized for a golfcart; that the HVAC unit on Lot 48 encroaches and the shed on that lot nearly sits on the property also; that the Applicant eliminated some variance requests with the newer site plan; and that the Board should refer to the site plan dated October 11, 2023.

Based on the updated site plan, the variances needed are as follows:

1. 1.8 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing manufactured home on Lot E48 for a proposed porch;
2. 1.7 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing manufactured home on Lot E48 for a proposed manufactured home;
3. 4.5 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing HVAC on Lot E48 for a proposed manufactured home;
4. 5.6 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing manufactured home on Lot E48 for a proposed landing and steps;
5. 2.0 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing shed on Lot E48 for a proposed landing;
6. 2.4 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing shed on Lot E48 for a proposed manufactured home;
7. 7.1 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing manufactured home on Lot E48 for a proposed shed;
8. 1.4 ft. from the 10 ft. separation distance requirement between accessory structures in a manufactured home park from the existing shed on Lot E48 for a proposed shed;
9. 0.3 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing manufactured home on Lot D45 for a proposed shed;
10. 4.6 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing manufactured home on Lot D45 for a proposed

- manufactured home;
11. 6.8 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing cover on Lot D45 for a proposed manufactured home;
 12. 5.4 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing shed on Lot D45 for a proposed manufactured home;
 13. 2.9 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing shed on Lot E44 for a proposed manufactured home;
 14. 6.1 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing ramp on Lot E44 for a proposed HVAC; and
 15. 3.1 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing ramp on Lot E44 for a proposed manufactured home.

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

Mr. Chorman closed the public hearing.

Mr. Warfel moved to approve the application for Case No. 12877 for the variances, pending final written decision, for the following reasons:

1. The property has unique conditions due to its shape and size;
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; 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 for the reasons stated.** Motion carried 5 - 0.

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

Case No. 12878 – Sea Air Village seeks 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 southeast side of Atlantic Avenue, Lot F13, within the Sea Air Village Manufactured Home Park. 911 Address: 19905 Atlantic Avenue, Rehoboth Beach. Zoning District: AR-1. Tax Parcel: 334-13.00-310.00-3156

Ms. Scott 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 thirteen (13) mail returns. The Applicant is requesting the following variances:

1. 1.5 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing HVAC on Lot F11 for the proposed landing;
2. 12.5 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing oil enclosure on Lot G14 for the proposed shed;
3. 9.5 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing manufactured home on Lot G14 for the proposed shed;
4. 4.5 ft. from the 10 ft. separation distance requirement between accessory structures in a manufactured home park from the existing shed on Lot G14 for the proposed shed;
5. 10.2 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing oil enclosure on Lot G14 for the proposed manufactured home;
6. 16.4 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing shed on Lot G14 for the proposed manufactured home;
7. 12.5 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing shed on Lot G14 for the proposed manufactured home;
8. 12.4 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing shed on Lot G14 for the proposed manufactured home;
9. 9.8 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing shed on Lot F11 for the proposed manufactured home; and
10. 2 ft. from the 20 ft. separation distance requirement between structures in a manufactured home park from the existing landing on Lot F11 for the proposed HVAC unit.

Ms. Aimee Bennett was previously sworn in to give testimony on the application.

Ms. Bennett testified that the existing unit on this site was demolished before the survey was completed but the unit that was previously there was a single-wide with a double-wide attached or with an extension that doubled the square footage attached to it; that, even though it seems like a lot of variance requests at the rear, it is a vast improvement over what was there previously; that the previous unit was a 1976 model that was in ill repair; that the property is unique in that it is narrower in comparison to the modern size manufactured home; that, in order to place the home on the lot, the variances are necessary and the Applicant would be unable to develop the lot without them; that the

exceptional practical difficulty has not been created by the Applicant but rather the encroachments from the surrounding lots; that the difficulty is caused because this particular lot is shallow and the nearby lots are built out; that the Applicant does not anticipate that these requests will alter the character of the neighborhood, at least not in any ill-fated way; that both of the neighbors are happy to have a new home coming as it is a welcome improvement compared to what was there; that these variances are the minimum variances required to afford relief and the least modifications to the regulations at issue; that the Applicant has not placed the proposed home yet; that the landing near Atlantic Avenue is larger because the buyer that is lined up requested a sliding door; that it is a fuel tank on Lot 14 and not a full enclosure; and that the neighboring lots have some of the oldest homes in the community.

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

Mr. Chorman closed the public hearing.

Mr. Williamson moved to approve the application for Case No. 12878 for the variances, pending final written decision, for the following reasons:

1. The property has unique conditions;
2. The exceptional practical difficulty was not created by the Applicant;
3. The variances will not alter the essential character of the neighborhood; and
4. The variances represent the minimum variances necessary to afford relief.

Motion by Mr. Williamson, seconded by Mr. Warfel, carried 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. Warfel – yea, Mr. Williamson - yea, and Mr. Chorman – yea.

Meeting adjourned at 7:18 p.m.