

MINUTES OF OCTOBER 17, 2022

The regular meeting of the Sussex County Board of Adjustment was held on Monday, October 17, 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 Jeffrey Chorman presiding. The Board members present were: Dr. Kevin Carson, Mr. Jeffrey Chorman, Mr. John T. Hastings, Mr. Jordan Warfel, and Mr. John Williamson. Also, in attendance were Mr. James Sharp, Esquire – Assistant County Attorney, Mr. Vince Robertson, Esquire – Assistant County Attorney, and staff members Mr. Jamie Whitehouse– Planning and Zoning Director, and Ms. Amy Hollis – Recording Secretary.

The Pledge of Allegiance was led by Mr. Williamson.

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

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

PUBLIC HEARINGS

Mr. Sharp recused himself and left the Council chambers.

Mr. Robertson stepped in as acting counsel.

Case No. 12750– Joseph and Hollie Gordon seek variances from the side yard setback requirement for an existing shed (Sections 115-25 and 115-183 of the Sussex County Zoning Code). The property is located on the northwest side of East Trap Pond Road approximately 0.49 miles from Parker Road. 911 Address: 22906 East Trap Pond Road, Georgetown. Zoning District: AR-1. Tax Parcel: 135-19.00-50.05

Mr. Whitehouse presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application and zero mail returns. The Applicants are requesting variances of 11.86 ft. and 14.23 ft. from the 15 ft. side yard setback requirement on the northeast side for an existing shed.

Ms. Hollie Gordon was sworn in to give testimony about the Application.

Ms. Gordon testified that she and her husband purchased this home in 2009; that this was their first real estate purchase; that the lot is wooded and setback from the road; that the lot consists

of 1.26 acres; that there is a shed on a permanent foundation that was on the property when they purchased it; that there was also a gravel driveway next to it that was being used; that they were young and the realtor they used was not forthcoming and they did not have a new survey completed; that they were unaware that the shed was not in compliance until she was trying to have some landscaping done; that the noncompliance was confirmed further by her neighbor's survey when trying to install a fence; that there was a property marker that they were using which is not correct, it is rather 10-15 ft. off that marker; that she compared her survey with the neighbors and was able to verify how close their shed was to the property line; that the property was purchased with the structures as they are now; that they have received no complaints in 13 years about the shed until now; that their property is a square but the property lines are slanted; that Ms. Lingo rents out the property next to them; that they were not aware that the property she rents could be developed; that it was not a pressing issue to them whether or not they were on the neighbor's property; that Ms. Lingo filed a complaint after her survey discovered their shed was too close to the property line; that they would like to remedy the issue in case they would like to sell; that the gravel was there when they purchased the property but they added the concrete driveway; that she has spoken with the neighbor about remedying the concrete driveway located on her property; that the shed is located on a concrete slab; that she is unsure of what the marker was but it was on her neighbor's property; that shed is not movable; that, though it is referred to as a shed, it is constructed of 2x4 and was built on site; that the shed matches the house; that the shed is anchored; that, if the neighbor placed a fence, it would be a detriment to them due to the location of their structure; and that Ms. Lingo would be able to place the fence on her property line if she chose to do so.

Ms. Kathy Lingo was sworn in to testify in opposition to this application.

Ms. Lingo testified that she is not necessarily in opposition; that she had her property subdivided and this property is the acre she had subdivided from hers; that the building at a rear corner is $\frac{3}{4}$ of an inch from her property line; that her line post is sitting right next to their building; that the front of the building is about 3 inches from her property line; that the concrete slab that they have offered to take up, which will obviously have to happen, is about 7-10 feet wide and the full length are on her land; that she has a prospective buyer for that property but they have concerns should they want to do maintenance on their structure that it will be on her property; that she would prefer that they scale down the building or it moved over a few feet; that, if it were 3 ft., she would not have a problem but that it is a matter of 3 inches that is really her concern; that the most of her concern is that if she places a fence on her property that they will not be able to maintain their building; that she is also concerned about the loss of the prospective buyer due to the building being on the corner of the land; that the survey she obtained states the distances from her property line; that she was mistaken about the distance as she did not realize that it was an abbreviation of feet rather than inches; that they are still talking about less than a foot and about 3 ft. at the other point; that she previously spoke with the neighbors about removing the concrete that was placed on her property; that she has owned her property since about 1990; that she was not aware of where the property line was until she had a survey completed to place a fence prior to the sale of the property; that she wanted to place the fence

either on the property line or not far off it; that with the shed where it is she would have to place the fence a good number of feet off the property line in order to maintain it; that, if they were to replace to roof of the shed, there is no way to do so without materials falling over the fence on to her property; that she is not aware of any gutters on their shed; and that she wanted to place her fence on the property line to match the other side.

Ms. Gordon testified that the shed does not have a gutter right now but they would be willing to place one; that she believes there is a 4 or 6-inch overhang on the shed; and that the framing of the shed is permanently anchored to the concrete.

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

Mr. Chorman closed the public hearing.

Mr. Warfel moved to approve Case No. 12750 with the condition that a gutter be placed to direct water away from the neighbor's property for the requested variances, 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 variances are necessary to enable the reasonable use of the property;
3. The exceptional practical difficulty was not created by the Applicants;
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 Mr. Williamson, carried that the **variances be granted with conditions for the reasons stated**. Motion carried 3 – 2.

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

Mr. Sharp returned as counsel for the Board and Mr. Robertson left the Chambers.

Case No. 12747– Frank and Laura Taylor seek a variance from the maximum fence height requirement for an existing fence (Sections 115-42, 115-182, and 115-185 of the Sussex County Zoning Code). The property is located on the southeast side of Adams Avenue approximately 110 feet southwest of South Bay Shore Drive in Broadkill Beach. 911 Address: 102 Adams Avenue, Milton. Zoning District: GR. Tax Parcel: 235-4.17-6.00

Mr. Whitehouse presented the case and stated that the Office of Planning and Zoning received no correspondence in support of and one (1) letter in opposition to the Application and zero mail returns. The Applicants are requesting a variance of 1.5 ft. from the 3.5 ft. maximum height requirement for an existing fence.

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

Ms. Peet stated that she will explain why *res judicata* does not apply in this case and will address the five (5) reasons why; that she is here to represent the Taylors who are the property owners of 102 Adams Avenue in Milton; that the property is identified by Tax Map Parcel number 235-4.17-6.00; that the property is located in Broadkill Beach; that there is quite a bit of history for the variance requested though it is just for a fence and its height specifically; that the variance requested is for 1.5 ft. from the 3.5 ft. maximum fence height for a portion of the existing fence; that the fence in question is located between the Taylors' property and the Erdmans' property; that the fence is L shaped and runs along Adams Avenue and the side property line; that the variance previously denied was for the portion of fence along Adams Avenue and not for the section separating the properties; that the application for this variance was submitted to Planning and Zoning on July 11, 2022, and contained several exhibits; that Exhibit A contains the deed and property information; that Exhibit B contains a survey that shows the majority of the Taylors' property is marsh land; that Exhibit C contains the relevant sections of the Zoning Code; that Exhibit D contains aerial maps of the property; that Exhibit E contains images of the fence and a video; that Exhibit F contains images of neighboring properties fences; that Exhibit G contains the land use history regarding the Taylors' previous variance request; that Exhibit H contains the building permit applied for by Backyard Works who was the building contractor; that the permit is likely the root of a lot on confusion surrounding the application; that Exhibit H also contains the Certificate of Compliance issued by Sussex County; that the Taylors appeared before the Board of June 21, 2021, to request a variance from the maximum fence height for a portion of fence located at the end of Adams Avenue; that, in reviewing the previous land use application, audio record and some of the follow up letters from Director Whitehouse concerning non-compliance for the remaining portion of the fence, it appears that there was confusion as to whether the variance, requested and denied, covered the entire portion of fence and specifically the portion of fence that is located at the end of Adams Avenue and the portion that separates the properties; that the building permit does concern both pieces of fence and the side yard property line; that she has conferred with Ms. Norwood of Planning and Zoning specifically about the audio and paper record of the previous application; that they would not be present now were it not for the fact that they believe, based off review, that the previous variance did not cover the entire portion of fence; that the notice for the June 21, 2021, hearing only included a variance of 1.5 ft. from the maximum fence height of 3.5 ft.; that, to understand what the Taylors applied for in 2021, you would need to refer to the application and exhibits in addition to the hearing record; that, after review of the paper and audio record for the June 21, 2021, meeting, and consultation with the Planning and Zoning Office, they concluded that the previous application only covered a portion of the fence at the end

of Adams Avenue; that they arrived at this conclusion based on the following; that the Applicant exhibits included in the original application contained a diagram provided by the Taylors that identifies the area of the 2021 variance request; that the diagram shows arrows pointing to the area of fence where the variance was being sought; that the arrows point to the front section of fence and not the side; that the audio from 2021 has Ms. Norwood introduced the case and explained the request for the fence height variance and that is all that is mentioned; that there is no talk about the length or other regarding the fence; that, during the testimony, Ms. Taylor makes it clear verbally that they were seeking a variance for a portion of fence facing Adams Avenue and located specifically at the terminus of Adams Avenue and not along the property line between the Taylors' and Erdmans' properties; that Counsel Sharp also mentions that the fence in question is at the terminus of Adams Avenue but he does mention the additional fence along the side yard of the marsh but it is also never clarified as to whether this portion of fence is included; that the decision itself states that the fence is at the end of Adams Avenue; that it is significant that the Board has not heard and decided a variance on this portion of fence due to the principles of *res judicata*; that the principles of *res judicata* relate to matters that have been adjudicated and decided and restrict a person from seeking action for the same matter that has already been decided to try and obtain a different result without showing a substantial change in circumstances or conditions affecting the property; that the Taylors are not looking to change the result of the former decision and, in fact, complied with that decision and reduced the area of fence in question; that they are here tonight to address the additional section of fence between the Taylors' and Erdmans' property; that she will be addressing some of the testimony from the June 2021 hearing to elaborate on the relationship between the Taylors and their neighbors the Erdmans; that a significant majority of the hearing record from the June 2021 hearing consist of the Erdmans' testimony in opposition to the Taylors' application; that the Erdmans' property shares a side property line with the Taylors; that the Erdmans filed a complaint with Sussex County Planning and Zoning against the Taylors' fence; that, at the first hearing, Ms. Erdman mainly emphasized her fear that someone may hide behind the fence lying in wait to attack her and her daughter; that the Taylors believe that the complaint is the result of a materializing property dispute between the Taylors and the Erdmans; that the fence was installed in February 2020; that an encroachment affecting the Erdmans was discovered and a complaint was filed with Planning and Zoning by the Erdmans in July of 2020; that this was roughly six (6) months after the installation of the fence but before the letter of violation from Director Whitehouse was issued in October 2020; that the property dispute involves a portion of the marsh identified as Tax Map 235-4.17-102.00 which is adjacent to the Taylors' property; that the property may or may not be still under contract to be sold from the Watkins-Burke Family Trust to the Erdmans but she is not aware; that the Erdmans were represented by Bill Schab and, according to her clients, they were notified by Mr. Schab of the encroachment as the result of a survey; that there is survey included which shows the encroachment; that a piece of the Taylors' dock encroaches into the neighboring property; that her clients did not build the dock; that they suspect that the dock has been in place since 1992 based on Google aerial map records; that it is believed that the dock and encroachment have existed since then; that this could be up for dispute but it is the position of her clients; that a discussion took place between the Taylors, Mr. Schab, and Laurence Burke who is a representative of the Watkins-Burke Trust that is selling or may be

interested in selling Parcel 102; that, at that time, her clients expressed interest in purchasing a portion of the property to resolve the encroachment; that the discussions did not go anywhere but is when the less than neighborly behavior began from the Erdmans; that this has result in legal behavior; that the behavior includes a most recent event which led to charges against the Erdmans for harassment, conspiracy, and lewdness, when on July 24, 2022 at 12:17 am the Erdmans were caught on camera trespassing into her clients' backyard; that the video of the Erdmans is not for sensitive ears or eyes; that, during this trespassing, Mr. Erdman was completely naked; that Ms. Erdman was partially exposed and becomes completely naked by the end of the video; that the harassing behavior began shortly after the dock encroachment was discovered in 2020 and has continued ever since; that limited testimony was given by the Taylors at the 2021 hearing about the Erdmans; that the Taylors were not represented and it is an overwhelming experience; that facts that should have been put into the record were not; that they consider the relationship between the Taylors and Erdmans to be relevant especially because any opposition testimony given tonight should be carefully scrutinized for its relevance and creditability in light of pending criminal charges against the Erdmans for their display; that the request tonight is for the portion of fence between the Taylors' and the Erdmans' properties; that the application was submitted by the Taylors on July 11, 2022, requesting a variance from the maximum fence height requirement for a portion of an existing 5 ft. fence in the amount of 1.5 ft. between the Taylor property and the Erdman property; that she would like to share a video which displays the location of the fence between the properties; that you are traveling on Bay Shore Drive and taking a right on to Adams Avenue; that you see the Taylors' property to the left as well as the portion of fence that was reduced to be in compliance; that traveling to the back you can see that the fence opens inward towards the marsh rather than outward towards Adams Avenue; that there is a walkway and dock on the marshy portion of the Taylors' property; that the purpose of the fence was to deter trespassers and neighbors from accessing their dock; that, from the video, it is hard to tell that the fence in question is within the front yard setback because you have to go past the house to see it; that, according to the survey, the fence is about 90 ft. past the house; that specific section of code that is at issue here is Section 115-185(c) which states any fence or wall for residential use, not more than 3 ½ feet in height, may project into or enclose any required front or side yard to a depth from the street line equal to the required depth of the front yard; that it continues on to say any fence, hedge, or wall for residential use may project into or enclose other required yards, provided that such fences, hedges, and walls do not exceed a height of seven feet; that it continues on to say this height limit does not apply to fences or walls used for commercial, industrial or agricultural uses, screening or tennis courts, and that every such fence must be approved by the Director; that the Planning and Zoning Office determined that the front of the Taylors' property is Adams Avenue; that, because Adams Avenue is the front yard, Section 115-185 requires that the portion of fence in question should be 3.5 ft. not 5 ft. as installed by Backyard Works, permitted by the Building and Licensing Department and issued a certificate of compliance by Sussex County; that the building permit issued is arguably the underlying source of confusion created by building and licensing; that, during the first hearing, Dr. Carson asked Ms. Taylor a question about the permit issued and suggested that the permit itself is confusing; that the building permit and attachment show a 5 ft. high fence in the area of question as well as a portion of fence along the other side of

the property that was permitted at 4 ft.; that all of the fence was placed on one (1) permit; that the permit lists 104 ft. vinyl fencing (48 in. in height), 70 ft. vinyl fencing (60 in. in height), and one (1) gate; that the certificate of compliance was issued for the fence, and included the part that has since been reduced; that Section 115-209 of the Sussex County Code authorizes the Board to hear and decide applications for variances; that Section 115-211 of the Code goes on to say that a variance shall only be granted by the Board if it finds that the applicant has met the five (5) criteria provided in the same code section; that to address the code specifically the property is unique because it is an L shaped property located in Broadkill Beach; that this property was formerly two (2) parcels that were combined in 1998 when the Taylors purchased the marshland parcel and combined it with the parcel where their house exists; that the dock has been on the property since 1992 and is on the marshland part of the property; that this dock was installed by the prior owners and repaired by the Taylors in 1998; that over time, with an increasing number of visitors to Broadkill Beach and increasing incidents with their neighbors, her clients decided to install the fence to deter trespassers from entering their property and dock; that the fence was permitted by Sussex County and received a certificate of compliance upon completion; that the authorization of a variance is necessary for her clients to comply with the code and to reasonably deter trespassers including the neighbors from accessing the marshland and dock, especially considering the liability concern surrounding access to the dock; that this was not created by the applicant as the applicant hired a licensed contractor Backyard Works; that the contractor received a permit to construct the fence and Sussex County issued a certificate of compliance for that fence; that understandably, from the video shown, the contractor did not consider Adams Avenue to be the front yard or consider the fence to be located within the front yard setback or subject to the height limitation; that Bay Shore Drive was considered to be the front yard and the fence to be compliant for its location; that she would also go as far to argue that the Sussex County Building and Licensing department created this issue by issuing a building permit that referenced multiple fence heights and locations in an incomprehensive manner; that the permit was so unclear that a certificate of compliance was then issued for the fence; that Sussex County residents and builders should be able to rely on permits and the issuance of a certificate of compliance; that residents should not be fearful to received a notice of violation months after the installation and certificate of compliance for permitted items; that the fence will not alter the essential character of the neighborhood; that the neighborhood is residential in nature; that the fence is in character with others in immediate vicinity of the property; that the only residents affected by the fence are the Erdmans; that the Erdmans recently installed trees that are at or above the 5 ft. in height of the fence at issue; that the trees planted by the Erdmans meet the fence of the Taylors and extend out to delineate their property line; that there are multiple fences located near the property; that the Erdmans have a fence on the other side of their property and that fence appears to be the same height as the Taylors' fence; that the minimum variance of 1.5 ft. is being requested as the fence is 5 ft. in height; that the consider the fence to be made up of two (2) portions and the application and exhibits were specific to the portion of fence they were addressing at the last hearing; that this specific issue was addressed with the Planning and Zoning office and Ms. Norwood prior to the filing of this application; that they would not be back before the Board were it not their opinion that this portion was not addressed at the last hearing; that the ambiguity comes from the finding that the fence was

located at the end of Adams Avenue and it was not clear to them from the findings and exhibits presented before the Board; that it was unclear in the notice but, when reviewing the application, the area in question was labeled; that the Taylors did not have the fence height reduced by the contractor for the section at issue tonight because they believed that it was not addressed in the variance application submitted and heard last year; that they believed the decision to be for the portion of fence at the terminus of Adams Avenue and not the piece of fence beyond it which runs between the properties; that the segment of fence in question is 30 ft.; that the fence is in the same location as installed in 2020; that the only change to the fence is the section reduced in height to be brought into compliance; that she did not go through all of the less than neighborly behavior of the Erdmans' towards the Taylors; that the behaviors in question have led the Taylors to want to keep the fence at its current height even more; that the Erdmans' installation of the trees which abut the fence is maybe an indicator of their desire for some distance and privacy between the properties also; that her clients position is that a 3.5 ft. high fence would not be sufficient on that side property line for privacy; that there are no impacts towards visibility or traffic created by the fence; that she did address that the gate also opens inward rather than outward as was noted as a concern previously; that there are not any no trespassing signs placed on the property; and that she corrects her statement to say the Erdmans were in the right of way adjacent to the Taylors' back yard.

Ms. Laura Taylor was sworn in to give testimony about their application.

Ms. Taylor testified that she affirms the statements made by Ms. Peet as true and correct; that the Erdmans were in the right of way, not her backyard; that the Erdmans' boat was parked in front of the end of Adams Avenue; that, on this particular night, their boat was parked right in front of the portion of the fence that was reduced; that they were not on her property but they were over enough to know that it would activate her cameras; that the next morning the Erdmans moved the boat to the front of their house by the fence on the other side of their property; that the incident on July 24 was in the right of way; that their deed says they have a 10 ft. right of way; that she does not know what the Erdmans' deed says; that the Erdmans have a boat that is about 26 ft. in length that is about 17 ft. high; that the boat was parked and they came around and walked to her cars portion of the right of way; that they have had issues with trespassers in their back yard; that animal control has been called at least five (5) times and she has stopped calling them; that she is unsure of animal controls results; that the Erdmans' dogs come on their property to do their business and the feces is left in their grass; that Ms. Erdman walks the dogs out into the right of way and then yells to the dogs not to go on their property because she will call the police; that it is general harassing behavior; that she and her husband have not been able to enjoy their property; that there have been times where she did not visit the property because you never know what the Erdmans will do; that she must admit that it is more Ms. Erdman as Mr. Erdman is more docile; that Mr. Erdman did participate in the event that occurred on July 24, 2022; that the actions in the video were directed at them and Ms. Peet after they were in the neighborhood taking photos for this application; that she was told to do something lewd to Ms. Erdman's husband on the video; that she wants them to know how upsetting this has been for two and a half years; that Ms. Erdman

has fences and a tree line on her property; that the trees installed separate the Erdmans' property and the right of way; that the trees go from the corner of their fence toward Bay Shore Drive with pieces of fence in between the trees; that the 1.5 ft. of fence will not resolve their issues with the neighbors and she is not sure what will; that she has been food shopping and come home to spray paint markings along the property lines; that it would take a week to look at all of the harassment they have endured; that the fence was put up because you can see their dock from the bridge and they were looking to deter trespassers; that, before the fence was installed, they were friendly neighbors; that Ms. Erdman previously text her to use their dock for crabbing but they noticed that, when others were using it, they would be chased off by Ms. Erdman; that they decided they wanted to stop everyone from accessing their dock; that she does not want to see into her neighbors' property anymore which was not an initial concern when installing the fence; that she understood their application last year to be just the front portion; and that she has spoken with Mr. Whitehouse in the past about it and expressed her confusion.

Ms. Brenda Erdman was sworn in to testify in opposition to the Application.

Ms. Erdman testified that she is here on behalf of herself and her husband Allen Erdman; that she was taken aback that they are here again; that Mr. Whitehouse's letter to the Taylors was point blank that the fence needs to be lowered by 1.5 ft.; that the previous testimony given by herself and her husband still holds true; that she wants to address allegation made by Ms. Taylor of harassment; that Ms. Taylor has her Ring camera pointed directly at her house; that she and her husband go skinny dipping on the other side of their property; that, when they go outside of their house, the Taylors' camera light comes on and is recording them; that she is also recording their conversations which is illegal by Delaware Title 11; that Ms. Taylor has been harassing her; that the charges referred to were her and Mr. Erdman skinny dipping and getting on to their own boat; that she has had enough of Ms. Taylor watching and listening to them; that her husband threw a ball one day which hit the Taylors' fence and the police showed up at Ms. Taylor's request; that she has been living with this since 2019 when Ms. Taylor accused her of having her crab traps on their dock; that the crab traps were not hers and she never accessed the dock after being asked to stop; that then the Ring cameras went up; that there is a Ring camera on the inside of the Taylors' fence which is recording their conversations; that there is no expectation of reasonable privacy anymore; that, when the incident in July occurred, Ms. Taylor was in Pennsylvania and had the Ring camera video on and watched the entire thing to have them arrested; that the charges are pending because what she did was illegal; that she will not stand by someone lying; that they do not have a right of way but have a 30 ft. road; that Ms. Taylor does not own the road though she thinks she does; that Ms. Taylor parks her car and boat on the road; that every once in a while they park their boat on the road only if they are doing things at the front of their property; that she has a driveway and needs to back her boat in they have to ask Ms. Taylor to move her car; that maybe Ms. Taylor should have parked her vehicles there instead of installing the fence; that the fence was installed to spite her and her husband and that testimony was included at the previous hearing; that the dock was not there when they bought the property; that there was a tiny little thing on the end but no walkway; that DNREC has confirmed to her that there has never been a permit for a dock; that the trees are not regulated like a fence is; that trees were placed so that Ms.

Taylor cannot see every time they leave their property; that she has two (2) Labradors and a blind Jack Russell Terrier; that her Jack Russell Terrier went on the Taylors' property once and pooped; that she picked up the poop; that one of her Labradors is an angel and the other likes to chase cats; that there are approximately 14 cats that run stray in their neighborhood; that the Taylors put food out for the cats and she has pictures; that this is also part of the reason they planted the trees; that she previously discussed the location of the fence with Mr. Whitehouse and how it is not on the Taylors' property; that, when her parents purchased the property, the deeds indicated 50 feet of road frontage for each parcel; that, when her parents purchased the property, there were no wetlands regulations; that they brought in all kinds of fill to fill in the back lot which they were allowed to do; that both of her deeds say 50 ft. of road frontage; that Ms. Taylor called DNREC and reported that her sand mound was bad; that she knows it is not about the fence but it speaks to the character of the Taylors; that her sand mound was built by being able to access the road which she cannot now because of the fence; that the issue is a County map issue because the County determined roads years ago; that why are the Taylors placing a fence on wetlands; that some of the information stated by Ms. Peet has been misrepresented; that the frustration of being watched on their own property every time they step out of their house or her dog runs across the property line; that Ms. Taylor has never called animal control on any other neighbors dogs; that she has no reason to go on Ms. Taylor's property; that all of this is relevant because Ms. Taylor and Ms. Peet were able to speak on her bad behavior so she has the same right; that she wants to set the record straight for herself and her husband; that there was no doubt in her mind that the hearing last year pertained to anything less than the entire fence and Mr. Whitehouse's letters explained the same; that why would she have been here to complain about someone hiding behind a fence if it was not that section of fence; that, if she or her daughter were hurt because of a sexual predator, and there are plenty of them in this state, someone will have to be responsible for that; that, if you cannot see over a fence, you cannot defend yourself; that she will defend herself because she has that right; that she does not get in Ms. Taylor's business; that she does not feel that a taller fence allows for more privacy; that Ms. Taylor is infatuated with what she is doing at all times; that she is aware there are other avenues for the privacy issues; that she has a garden on her property and when watering the other night she could see that she was being recorded; that their backdoor is the main door to their home; that the trees are planted to obstruct the view by the Taylors; that you can see through the trees; that she is completely deaf in her one ear which causes directional noise issues; that, if someone was coming off of the dock, they would be behind the fence before being behind her trees; that she has pictures of Mr. Taylor lurking on his own property; that fortunately she knew it was him but one day she may not; that before they planted the trees she made sure there was no regulation on trees; that they are also to stop her dogs from going on the Taylors' property; that she is not privy to any information regarding trespassers on the Taylor's property; that according to Ms. Taylor there were issues with trespassers before the fence; that she has only had people come up to her and ask about using the dock to which she replied it was not her dock; that at that point they were neighborly; that Mr. Taylor told her they did not want anyone on the dock and she honored that; and that there could be ten (10) people on the dock and she would not be aware of it.

Ms. Peet stated in response to the opposition testimony to scrutinize the testimony provided for credibility and relevance; that her client may have additional information to share; that this should

really be about the fence and not the other issues at hand; that they have presented their case and ask that the Board consider and grant the variance requested; and that she also reminds that this was permitted and CO'd by Sussex County.

Ms. Taylor testified in response to the opposition's testimony that she did not watch the video until the next morning; that it is a Ring camera not some highly technical surveillance camera; that it is a stationary camera; that it is located on the other side of her house; that she believes it has some range to catch what is occurring at the roadway; that Ms. Erdman has flags that activate her camera; that, on Sunday the 9th, Mr. Erdman came to her property and asked her to move her car; that they have been there for forty (40) years and she has parked in the same location for that time; that DeIDOT has indicated they have no problem with where she parks or park their boat; that the Erdmans park their boat on the street also as seen in previous photos submitted; that she feels that someone could hide behind the Erdmans' boat; that she asked Mr. Erdman if he was allowed to be there due to a possible no contact order; that he was told he could be there and make contact for civil related matters; that he began to argue with her about the dogs and the fence; that he told her they are going to buy the property behind them; that Mr. Erdman told her that if they do not resolve the issue with the fence and the dock then this will continue; that she and her husband have had no contact with the Erdmans in two and a half years; that she has a camera and so does Ms. Erdman; that the Erdmans' camera light up the whole neighborhood; and that Ms. Erdman directs her actions at the camera towards her.

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

Mr. Chorman closed the public hearing.

Mr. Williamson moved to approve the request for rehearing as the Applicants have demonstrated that there has been a substantial change in circumstances and conditions affecting the property.

Motion by Mr. Williamson, seconded by Mr. Hastings. Motion carried 4 - 1.

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

Mr. Hastings moved to approve Case No. 12747 for the requested variance for the fence along the side yard but within the front yard setback area, pending final written decision, for the following reasons:

1. The fence helps the situation; and
2. The variance represents the minimum variance necessary to afford relief.

As part of his motion, Mr. Hastings also clarified that the fence along Adams Avenue must

remain the same. Motion by Mr. Hastings, seconded by Mr. Williamson, carried that the **variance be granted for the reasons stated**. Motion carried 4 – 1.

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

Mr. Warfel stated that he voted against the motion for the same reasons as the fence was denied in the prior application filed by the Applicants.

RECESS – 7:37 – 7:42

Case No. 12748– David and Kathleen Berch seek variances from the front yard setback requirement for proposed structures (Sections 115-34, and 115-182 of the Sussex County Zoning Code). The property is located on the northeast side of West Stoney Run within the Keenwick Sound Subdivision. 911 Address: 37843 West Stoney Run, Selbyville. Zoning District: MR-RPC. Tax Parcel: 533-19.00-697.00

Mr. Whitehouse 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 zero mail returns. The Applicants are requesting a variance of 2.7 ft. from the 30 ft. front yard setback requirement for a proposed porch.

Mr. David Berch was sworn in to give testimony about the Application.

Mr. Berch testified that they are seeking a variance of 2.7 ft. from the 30 ft. front yard setback requirement to install an 8 ft. wide front porch on the existing structure; that the existing structure was built in 1989; that they have a boundary survey that was received in 2012 which indicates the building setback is 34.8 ft. for the front left corner and 35.5 ft. for the right front corner; that, based on the site plan for the proposed porch, they will need a variance of 2.7 ft. over the 30 ft. setback; that they sought HOA approval as well as support from their adjoining neighbors; that they have submitted exhibits; that Exhibit A consists of the attachments submitted with the application; that Exhibit B consists of photos of the front of the house; that Exhibit C consists of the restrictive covenants for Keenwick Sound; that these restrictive covenants allow the HOA to grant variances to allow each lot to be developed and maximize its aesthetic potential; that they feel that by not tearing their house down but adding a front porch will maximize the aesthetic potential of the property; that Exhibit D consists of signed affidavits by their neighbors in support of this application; that the variances do not include the steps; that the steps can be moved to the side should it be needed but they prefer them on the front; that the steps will not be covered; that the back steps are existing; that he believes that their property line is about 10 ft. from the edge of paving; that he believes the closest point of the front porch will be 37 ft. from the road; that the shed was existing when the property was purchased and is in compliance; that they are remodeling the home; that the home is sound and structural; that they are the third owners of this home; that the home is insulated all throughout and is a four season home;

that they plan to retire there; that they have a 6 ft. porch on their current home in Maryland; that with the rocking chairs you have to stop and sit up for people to move past you; that an additional 2 ft. on the porch will make it more functional; that the porch will be covered; that they have looked at an open deck but prefer to be able to use their porch even in the rain; that the property has public water and sewer; that the three seasons room off the back of the house was already there when purchased; that many of his neighbors have porches similar to his proposal; and that the porches in the neighborhood vary in size.

Mr. Whitehouse stated that no variance is needed for the steps because the steps are open and unenclosed.

Mr. Sharp stated that no variance is needed for the shed because the shed consists of less than 600 square feet; and that the small lot ordinance does not apply because the lot is located in an RPC.

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 Case No. 12748 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 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; Mr. Williamson – yea, Mr. Hastings – yea, Mr. Warfel – yea, Dr. Carson – yea, and Mr. Chorman – yea.

Case No. 12749– Norman Gruwell seeks a variance from the rear yard setback requirement for a proposed detached garage (Section 115-25, 115-183, and 115-185 of the Sussex County Zoning Code). The property is located on the northeast side of Woodland Avenue approximately 110 ft. from 1st Street. 911 Address: 34031 Woodland Avenue, Lewes. Zoning District: AR-1. Tax Parcel: 335-8.18-24.02

Mr. Whitehouse presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application and two (2) mail returns. The Applicant is requesting a variance of 15 ft. from the 20 ft. rear yard setback requirement for a proposed detached garage.

Mr. Bill Schab, Esquire, is present on behalf of the Applicant and he presented exhibits on behalf of the Applicant.

Mr. Bill Schab stated that he is here on behalf of Mr. Gruwell; that this is a very unique case; that Mr. Gruwell bought this property in 2011; that it was sold to him by Anna Shaffer; that, originally, this property was “L” shaped and included the parcel next to it and included three (3) dwellings; that Ms. Shaffer obtained a variance to create Parcel 24.02 on July 6, 2009; that everything about the property is nonconforming; that the end result was that the Board allowed that lot to be created separately; that attached is the survey associated with that application; that they are here tonight because of a pole with a guide wire; that the pole holds transmission lines; that several years ago Mr. Gruwell, Mr. Schab, and Mr. Whitehouse had spoken about partitioning the property which never came to any fruition; that, as a result of that meeting, Delaware Electric Coop was contacted by Mr. Gruwell to inquire about the pole but nothing can be done; that whatever function the pole serves it must stay; that the property consists of rentals, one dwelling, and a duplex; that Mr. Gruwell wants to add a garage; that he obtained a permit for the garage; that the contractor, upon looking at the plans and property, noticed the issue with placement and the wire off the pole; that, with the turning radius of the garage and the location of the pole, it is not feasible to place it without the variance; that the previous permit has since lapsed; that Mr. Gruwell would like to place the garage 5 ft. off the rear property line; that the property to the rear is also owned by the former owner Ms. Shaffer; that Ms. Shaffer’s relatives live adjacent to the property also; that Ms. Shaffer is over 100 years old; that Ms. Shaffer’s daughter manages her estate and properties; that they received a letter of support from the neighbors most directly affected; that there are wetlands on the property to the rear and is unlikely to be developed; that included in the packet are drawings with measurements; that the wire sticks too far out into the back yard for Mr. Gruwell to be able to access the garage with vehicles; that he has never dealt with a property that has a pole with wire in the back yard like this and it speaks to the uniqueness; that the practical difficulty is not created by Mr. Gruwell; that Mr. Gruwell has tried to move the garage in other locations; that he plans to use the existing driveway; that, regardless of the size of the garage, the proposed location is where it would need to be located; that the issue of the wire would remain regardless; that the pole and wire were there when the property was purchased; that one could say that he should not have purchased the property; that he figured he would be able to do something with the property regardless of the pole and wire; that the variance is the minimum variance requested to afford relief; that the turning area required for a boat and trailer is not available due to the pole and wires location if the garage was to meet the setbacks; that you have to back a boat in to the garage; that the only thing Mr. Gruwell could do differently would be to ask for a smaller garage and variance but that would not allow him to use his property normally; that his request has no adverse consequences to neighboring properties; that a garage of the same size can fit on the property but not in this location; that the property is unique, is the minimum requested, and has no adverse effect on neighboring properties; that the property could be used without a garage but it is normal to have a garage; that this was not created by Mr. Gruwell; that the variance is for the rear and not the side; that, if the garage was turned, it would still need a variance; that the survey has a division line but it is not there but was when he was proposing to subdivide the property; that the wire extends out from the

pole 14 ft.; that Savannah Road is two (2) houses away; and that there is room on the property for the additional driveway.

Mr. Norman Gruwell was sworn in to give testimony about the Application.

Mr. Gruwell testified that the normal setback for the rear property line is 20 ft. and the size to put a car in the garage is 30 ft.; that, with the wire in the way, you cannot back a car into the garage or back a boat in; that Mr. Schab was accurate in stating that Delaware Electric Coop was called and that the pole must stay; that there is no well or septic on the lot; that there is nothing prohibiting the placement of the garage in the center of the property but to align with the placement of the existing driveway it needs to be placed on that side of the property; that it is more logical to place the building to align with the driveway with the garage doors facing the roadway; that the garage will measure 45 feet x 30 feet; that a normal garage is 30 ft. deep; that he has a classic car, a truck, a boat, and a lot of stuff that will be going in the garage; that the garage will be larger than the home on the left side of the property; that he has approved plans of that exact measurement but that permit expired due to his issue with the placement of the pole and wire; that the survey shows both the legal location to conform to Code and the proposed location of the garage; that there is marshland behind him that cannot be built upon; that the logical location of the proposal seems to be better than in the middle of the lot and obstructing the view of the property; that he is not aware of any restrictions to how close you can build to the pole; that he does not recall who he spoke with at the Coop; that it is a support pole for across the street; that he already had a permit and plans for the garage he is proposing but the wire was in the way; that the original proposal was 24 ft. from the guide wire but it was not reasonable to be able to put a boat and trailer into the garage; that the size of the garage is because he needs that much space; that it will have a stone driveway; that it will be asphalt eventually but it is not a priority; that the tree will not be removed; that the tree creates shade for the property; that there are three (3) driveways on the property; that there is a gravel driveway at the left side of the property; that half of the gravel driveway is on his property; that, when the driveway was placed, it infringed on his property; that he thinks the neighbor put up a fence and it is not on his property; that the neighbor behind him uses his property to access his lot; that there are three (3) units on the property; that the statements made by Mr. Schab are true and correct; that he would extend the driveway on to his property entirely and it would be clearly marked; that the tree is not as large as it appears on the online mapping; and that he has not considered driving through the middle entrance of the property and straight into the garage.

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 Case No. 12749 for the requested variance, pending final written decision, for the following reasons:

1. The property has unique conditions due to the power pole;

2. The exceptional practical difficulty was not created by the Applicant;
3. 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
4. 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 3-2.

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

Mr. Warfel stated that he was not convinced that the Applicant met the standards for granting a variance and that the request appears to be a “want” rather than a “need.”

Case No. 12751– John T. Covelli seeks variances from the side and rear yard setback requirements for an existing shed (Sections 115-25 and 115-183 of the Sussex County Zoning Code). The property is located on the east side of Poole Court. 911 Address: 30954 Poole Court, Dagsboro. Zoning District: AR-1. Tax Parcel: 134-6.00-208.00

Mr. Whitehouse presented the case and stated that the Office of Planning and Zoning received one (1) letter in support of and none in opposition to the Application and one (1) mail return. The Applicant is requesting variances of 3 ft. from the 5 ft. side yard setback on the south side and from the rear yard setback for an existing shed.

Mr. John T. Covelli was sworn in to give testimony about the Application.

Mr. Covelli testified that the shed has been in place since 2018 in its present position; that, prior to 2018, it was on the left side of the property in a similar manner; that the shed was where his pole barn is now; that he put a new house in 2018 and moved the shed to the right side of the property; that he was under the assumption that, for a movable shed with no foundation under it of this size, it could be 2 ft. off the side and rear property line; that he has been proven wrong on that assumption; that his neighbor that reported him after it being there for years but the neighbor has now submitted a letter in support of the variance application; that, if he were to move the shed to be in compliance with the Code, he would be close to, if not on top of, the “D” box for his septic system; that he is asking for the variance to allow his shed to remain in place; that the shed is 135 ft. off the road; that the property is 125 ft. long but there is a 10 ft. variance in the front; that he does not see where the shed is bothering anyone; that the item marked tank on the survey is the septic tank; that along the right side of the house is the drainage field; that the shed is 10 feet by 12 feet or 8 feet by 12 feet; that the neighbor who made the complaint did not speak to him prior to lodging the complaint; that he made a complaint to the County about his neighbor first; that his neighbor Stanley was building tents along one side of his house and had another tent on the side closest to his property; that he asked his neighbor

to buy a tarp to cover his boat rather than keep putting up tents; that Stanley replied that he can do what he wants on his property and then he lodged the complaint which started this; that he and Stanley are not on speaking terms; that the constables went out to investigate the violation claims after his meeting with Mr. Whitehouse; that Mr. Whitehouse was able to bring up the property back to 2018 and show the structure in question; that, on the right side of the house, is a concrete pad which is fenced in for his dog; that part of the drain field is underneath the concrete pad; that he hired a company to move the shed; that he drives across the septic field to the shed all the time; that the septic and house were there when he purchased the property; that he guesses he could put the shed next to the pole barn or behind the house but it would be difficult to access with his truck; that he accessed the pole barn by driving straight back on his property; and that, if he has to move the shed, he will place it 5 ft. off the side and rear rather than move it to be behind his house and get a contractor to move it should he need to access the “D” box.

Ms. Janice Tunnell was sworn in to testify in support of the Application.

Ms. Tunnell testified she is the president of the Dogwood Acres voluntary homeowners association; that she thinks that the Board will see them more in the future; that this neighborhood is a very unique community; that they call themselves a fishing community; that there are lots of trailers but it is changing; that the residents are looking to fix things up; that some residents follow the rules more than others; that Mr. Covelli’s shed is not out of the character of the neighborhood; that the shed does not pose any problems; that no one has ever called her about the shed; that most of the complaints she fields are for vehicles and boats; and that she was here in 2006 because she built a new house and the covered steps encroached.

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

Mr. Chorman closed the public hearing.

Mr. Warfel moved to approve Case No. 12751 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique conditions due to 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 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.

Motion by Mr. Warfel, seconded by Mr. Hastings, carried unanimously that the **variances be granted for the reasons stated**. Motion carries 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. 12752– Herbert Reynolds seeks variances from the side yard setback, lot coverage, and separation distance requirements for a proposed detached garage (Sections 115-25, 115-172, 115-183, and 115-185 of the Sussex County Zoning Code). The property is located on the north side of Jasper View Lane within the Masseys Landing manufactured home park. 911 Address: 37269 Jasper View Lane, Millsboro. Zoning District: AR-1. Tax Parcel: 234-25.00-31.00-8874

Mr. Whitehouse presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application and zero mail returns. The Applicant is requesting variances of 3 ft. from the 5 ft. side yard setback requirement on the west side for a proposed garage, 5.18 ft. from the 20 ft. separation distance requirement between structures for a proposed garage from the dwelling on Lot 38, and 8.73% from the 35% maximum allowable lot coverage in a manufactured home park for a proposed garage.

Mr. Blake Carey, Esquire, is present on behalf of the Applicant.

Mr. Carey stated that he is here on behalf of the Applicant Herbert Reynolds; that he believes it will be easier to start with the *res judicata* issue; that they argue that the new variance has a substantial change to the proposed plans as shown in the packet; that the previous variance request included a proposed garage that was on the rear, front, and side yard lot lines; that the new variance is roughly 2 ft. away from the side yard lot line and complies with the setbacks for the front and rear lot lines; that the new request also changes the percentage of impervious surface and the distance from the existing dwelling to the west; that, based on those reasons, their position is that this is a substantial change to the request; and that this has removed the variances sought before except for the 3 ft. side yard variance, 5.18 ft. separation distance variance, and the 8.73% lot coverage variance.

Mr. Warfel moved to approve the hear the new application as the Applicant has demonstrated that there has been a substantial change in circumstances and conditions affecting the property.

Motion by Mr. Warfel, seconded by Mr. Hastings, carried unanimously 5-0.

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

Mr. Carey stated that Mr. Reynolds is seeking a variance to construct a garage to store his classic cars; that the property is now the permanent residence of Mr. Reynolds; that the property is

unique because of the placement of a telephone pole in the front center of the property; that there is also a pumping station and a shed; that the structures in the front yard were all existing when Mr. Reynolds purchased the property; that the home was also existing when the property was purchased; that another unique quality to the property is that the entrance to the dwelling is on the rear; that the side yard is the only proposed location on the property for a garage; that the request is to place an 18' x 54' garage on the westerly side of the property; that on the easterly side of the property there are propane tanks and the HVAC system which was also existing when the property was purchased; that on the western side of the property they have to maintain some space between the house and garage for emergency personnel to access the dwelling if there was ever a need; that, if they are not able to access through the rear, they would have to reconfigure the layout of the entire home which would be a substantial burden on the Applicant; that this garage would allow cars to drive all the way back and will utilize a two (2) post lift system; that, without this system, the request would be for the entire property to be a garage; that the minimum request here would allow for the two (2) post lift system to be in place to store several classic cars in the garage; that the 18' x 54' garage is the minimum necessary to accommodate the lift system and allow for safety systems; that the property was purchased with the home and improvements as they exist presently; that the exceptional practical difficulty was not created by the Applicant; that these are cars that the Applicant has owned prior to purchasing the property and needs to be able to store them; that there are several homes in the neighborhood that have accessory structures to include garages; that the only other place on the property to but a structure of this size would be across the front yard and would leave a view of the property as the garage and potentially inhibit use of the property; that the shed would be relocated within the setbacks; that the neighborhood and most directly affected neighbor have indicated there is no issue with the request; that, with the garage being moved, the view of the neighbor is improved; that Mr. Reynolds has coordinated the construction as well as maintenance of the proposed garage; that you will be able to access the garage on all sides while remaining on the Reynolds property; that there will be a gutter system on the garage to deter water from going to the neighbor's property; that there will be no overhang of the structure over the property line; that the garage will be at or under two (2) stories; that it cannot be over 25 ft. tall; and that they would not be opposed to a condition that the shed must be placed within the setbacks if it is moved.

Mr. Herbert Reynolds was sworn in to give testimony about their Application.

Mr. Reynolds testified that all of the statements made by Mr. Carey are true and correct; that Massey's Landing has no objection to the proposal; that the most affected neighbor has no objection as of today; that the emails submitted with the initial application are still true today; that he took to heart what was pointed out at the last meeting and took into consideration all of the questions and recommendations; that he tried to do the best he could based off of the recommendations; that he weighed what he wanted versus what he needs; that he has what he needs now; that he wanted to thank the Board for their input; that there will be no attic or crawl space in the garage; that it will be a single story; that the garage cannot be attached to the house because of the location of the entrance; that he will be removing the steps and creating a walkway; that he will be moving the steps to be off the rear of the house rather than the side as they are currently; that this is for the storage of his own

personal vehicles; that he has worked on cars his whole life and his hands are too shaky to do the work he likes to do so he is now working on his vehicles minimally; that this is leased land; that Massey's Landing is the landlord; that he will be relocating one of the sheds on the property to be within the setbacks; that he is unsure of how they calculated the total impervious surface; that the shed will be relocated behind the house; that the bulkhead does not match the property line; that there is enough room behind the house to place the shed as he measured it himself; that the shed is currently encroaching; that the pump at the front of his house is for the benefit of the community; that he is unsure if the pump is included in the calculation for impervious surface; that he understands that, if the percentage is not correct, it may create an issue for the accessory structures on the property; that he keeps his fishing equipment in that shed; that he does not remember the dimensions of the shed; and that he does not want to get rid of the shed but that garage is more important than the shed.

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 Case No. 12752 for the requested variances with the condition that the lot coverage percentage remains at 8.73% and any sheds be within the setbacks, pending final written decision, for the following reasons:

1. The property has unique conditions; and
2. 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 4-1.

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

Mr. Chorman stated that he believed the exceptional practical difficulty was being created by the Applicant.

ADDITIONAL BUSINESS

The Board discussed the request for a 12-month extension for Case 12527 Lands of Kathleen Stone and John Meyer.

Motion by Mr. Warfel, seconded by Mr. Hastings, to approve the extension for a period of one year. 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 9:15 p.m.