

MINUTES OF JUNE 17, 2024

The regular meeting of the Sussex County Board of Adjustment was held on Monday, June 17, 2024, at 6:00 p.m. in the County Council Chambers, 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. Jennifer Norwood – Planning and Zoning Manager, and Ms. Marina Truitt – Recording Secretary.

The Pledge of Allegiance was led by Mr. Chorman.

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

Motion by Mr. Williamson, seconded by Mr. Hastings and carried unanimously to approve the Minutes for the April 22, 2024, meeting. Motion carried 5 – 0.

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

Motion by Mr. Hastings, seconded by Dr. Carson and carried to approve the Findings of Facts for the April 22, 2024, meeting. Motion carried 5 – 0.

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

PUBLIC HEARINGS

Case No. 12941 – Keystone Novelties Distributors seeks a special use exception for a temporary tent sale (Section 115-32 of the Sussex County Zoning Code). The property is located East of Cedar Neck Road and North of Bethany Loop within the Salt Pond Plaza Complex. 911 Address: 703 Bethany Loop, Bethany Beach. Zoning District: MR. Tax Parcel: 134-13.00-88.12

Ms. Norwood presented the case. The Applicant is seeking a special use exception for a temporary tent sale.

Mr. Sharp stated that the first three cases this evening were applications previously heard at the May 6, 2024, meeting; that it was discovered that, after the Board had voted that night, there was a posting issue; that the cases need to be reheard; and that there is still a record of testimony from the applicants from the prior meeting that can be utilized.

Mr. Fred Young was sworn in to give testimony for this application.

Mr. Young testified that he is able to answer any questions the Board may have in reference to the prior hearing; that the dates of operation will be June 21, 2024, through July 4, 2024; that the hours of operation are 10:00 am to 10:00 pm daily; that the clerks are trained for security of the tents; that the tents are well marked with fire exits, no smoking signs, and point of sales; that there is someone at the tent around the clock; that nothing has changed from the testimony given at the prior hearing; that, depending on the ground type, the tent would be staked with iron stakes into the asphalt or weighed down with concrete barriers; that the application states the tent will be placed on Parcel 88.12, but the picture/diagram shows it being placed on Parcel 88.11; that excess inventory may be held on site or at a central location, off site; that the tent can and will be placed on Parcel 88.12; that the tent takes up roughly five or six parking spaces; that the line of site will not be obstructed with the new proposed location on Parcel 88.12; that smaller signage will be posted, indicating directions for patrons; that there is usually a bit of flexibility negotiated with the tent placement so they are able to move it; that the current tent size is proposed to be a 20 foot by 40 foot tent; that they can go with a smaller size if needed; that any lighting will be contained to the inside of the tent; that the location provides electric so there will not be a generator present; that an estimated 3 cars per hour is anticipated for the first week of business and 10 cars an hour as the sale gets comes to an end; and that the set up would be 3 days prior to June 21 and breakdown would be within 10 days after July 4.

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

Mr. Chorman closed the public hearing.

Dr. Carson moved to approve the application for Case No. 12941 for the requested special use exception, pending final written decision, because the use will not substantially affect adversely the uses of adjacent and neighboring properties and subject to the following conditions:

1. The Applicant shall submit documentation to the Planning & Zoning Department from the landlord consenting to the location of the tent on the property;
2. The approval is granted for one (1) year; and
3. The tent will be operation be from June 21, 2024 to July 4, 2024 with three (3) days prior for setup and six (6) days after to breakdown.

Motion by Dr. Carson, seconded by Mr. Hastings, carried that the **special use exception be approved with conditions for the reasons stated.** 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.

Case No. 12942 – Keystone Novelties Distributors seeks a special use exception for a temporary tent sale (Section 115-80 of the Sussex County Zoning Code). The property is located East of

Roxana Road and South of Atlantic Avenue. 911 Address: 34960 Atlantic Avenue, Ocean View.
Zoning District: C-1. Tax Parcel: 134-12.00-330.01

Ms. Norwood presented the case. The Applicant is seeking a special use exception for a temporary tent sale.

Mr. Fred Young, who was previously sworn in, appeared to testify for the application.

Mr. Young testified that the proposed location of the tent is back off the road with a porta-potty on site; that the sale runs from June 21, 2024, to July 4, 2024; that the lease is for a one-year period; that hours of operation are roughly 9:00 am to 9:00 pm daily; that, on July 3 and July 4, the hours would operate between 9:00 am and 10:30 pm; that the tent would be staked down; that the tent is 20 feet by 40 feet; that there will not be any outside lights, all lighting will be contained within the tent, no speakers, smells, or vibrations coming from the tent; that the merchandise will be packed up in a storage container each night or a clerk would stay on site to as security; that the sale dates are from June 21, 2024 to July 4, 2024, with the tent set up 3 days prior and breakdown 6 days after; that the application states the tent will be placed on Parcel 330.01, but the picture/diagram shows it being placed on Parcel 331; that the tent will be moved on to Parcel 330.01 in the parking spots near the road; that the 20 foot by 40 foot tent will take up roughly 5 parking spaces; and that the tent will be brought into compliance on the correct parcel and an agreement will be made on where to place the tent by the landlord.

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

Mr. Chorman closed the public hearing.

Dr. Carson moved to approve the application for Case No. 12942 for the requested special use exception, pending final written decision, because the use will not substantially affect adversely the uses of adjacent and neighboring properties subject to the following conditions:

1. The Applicant shall submit documentation to the Planning & Zoning Department from the landlord consenting to the location of the tent on the property;
2. The approval is granted for one (1) year; and
3. The tent will be operation be from June 21, 2024, to July 4, 2024 with three (3) days prior for setup and six (6) days to breakdown.

Motion by Dr. Carson, seconded by Mr. Williamson, carried that the **special use exception be approved with conditions for the reasons stated.** Motion carried 4 – 1.

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

Mr. Chorman stated that he voted against the motion to approve because he felt that there was too much ambiguity around where the tent was going to be placed.

Case No. 12943 – Orlando and Evelyn Nieves seek variances from the side yard setback requirement for an existing addition (Section 115-25 of the Sussex County Zoning Code). The property is located Southwest of Comet Court within the Starlight Meadows Subdivision. 911 Address: 6 Comet Court, Milton. Zoning District: AR-1. Tax Parcel: 235-7.00-223.00

Ms. Norwood presented the case.

Mr. Sharp stated that this case was heard on May 6, 2024; that the record has been heard; that there was no opposition; and that there was the same posting issue which caused the rehearing.

Mr. Orlando Nieves and Ms. Evelyn Nieves were sworn in to give testimony for this application.

Mr. Nieves testified that he had a contractor through Angie's List to build an addition on the house; that the contractor indicated that no permits were required; that the contractor began working but never came back after it was partially completed; that there were other issues that the contractor created; that they have now filed for building and plumbing permits; that the property is on a cul-de-sac; that there is a well in the front yard and septic in the rear which inhibit the location of the addition; that there are woods in the rear yard; that no homeowners association approval is needed; that the neighbor most affected by the request supports the application; that the addition will be used for their daughter and son-in-law; that there have been no complaints about the addition; and that the house was built in 2011.

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

Mr. Chorman closed the public hearing.

Mr. Williamson moved to approve the application Case No. 12943 for the variances, pending final written decision, for the following reasons:

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

As part of his motion, Mr. Williamson directed that the County refund the Applicants' application fee due to the inconvenience of the rehearing.

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

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

Case No. 12951 – Charles and Ruth Basel seek a variance from the side yard setback requirement for a proposed structure (Section 115-25 of the Sussex County Zoning Code). The property is located West of Lenape Lane and South of Johnson Road within the Indian Acres Subdivision. 911 Address: 27135 Lenape Lane, Georgetown. Zoning District: AR-1. Tax Parcel: 234-9.00-37.00

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received one letter in support of the Application, zero letters of opposition to the Application, and zero mail returns. The Applicants are requesting a nine (9) foot variance from the 15 foot side yard setback requirement on the south side for a proposed detached garage.

Mr. Charles Basel and Ms. Ruth Basel were sworn in to give testimony for this application.

Mr. Basel testified that the garage will be roughly 800 square feet thereby eliminating the ability to place the structure five (5) feet from the property line by right.

Ms. Basel testified that the property is caddy cornered; that the tax ditch on the side of the property has additional setback requirements, 60 feet from the centerline; and that the property line adjacent to Johnson Road has an increased setback.

Ms. Norwood confirmed that the property is considered a through lot.

Mr. Basel testified that the garage is needed for storage and to house and protect their cars from the elements; that there is no homeowners association; that they currently have a 12 foot by 14 foot shed in the back yard along with a gazebo; that the proposed location of the building is to run with the building restriction line in order to keep the same distance from the property line; that the proposed garage will measure 24 feet by 36 feet; that, to the north of the shed, is a large septic mound; that he thinks the well is in the front of the house; that flooding is not an issue on the property; that the driveway cuts through the property and touches Johnson Road and has been approved by DelDOT; that the house was already on the property when they purchased the property two years ago; that there is an old septic system still on the property as well; and that placing the proposed garage on or next to the gravel driveway to the northeast side of the property was not a viable option.

Ms. Basel testified that the neighbor directly affected by the proposed variance wrote a letter of support for the Applicants; and that placing the proposed garage on or next to the gravel driveway to the northeast side of the property was discussed but not viable.

Ms. Norwood stated that the setback off Johnson Road is 40 feet from the property line; that

the new through lot ordinance does not apply to this lot since it has access to both roads; and that the setback from the tax ditch is 60 feet from the centerline.

Mr. Basel testified that the property is unique with the number of setbacks crowding their building area from almost every angle; that the access door on the proposed garage faces towards the back yard of the house; and that there will be no steps protruding from the proposed garage.

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

Mr. Chorman closed the public hearing.

Mr. Warfel moved to approve the application for Case No. 12951 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique conditions due to having two entrances and the unusual setbacks reducing the buildable area;
2. That, due to such physical conditions, there is no possibility that the property can be developed in strict conformity with the code and the variance for the garage is necessary to enable reasonable use of the property;
3. The exceptional practical difficulty was not created by the Applicants;
4. The variance will not alter the essential character of the neighborhood; 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 4 – 1.

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

Mr. Williamson noted that the property is an acre lot but the buildable area is closed in thereby limiting what the Applicants are able to do.

Case No. 12952 – Michael Lewis seeks a variance from the front yard setback requirement for a proposed structure (Section 115-42 of the Sussex County Zoning Code). The property is located South of Martins Way within the Martin E. Cox Subdivision. 911 Address: 38179 Martins Way, Ocean View. Zoning District: GR. Tax Parcel: 134-9.00-263.00

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received five (5) letters in support of the Application, zero letters of opposition to the Application, and zero mail returns. The Applicant is requesting a 7.2 foot variance from the 30 foot front yard setback requirement for a proposed addition and a 5.2 foot variance from the 30 foot front yard setback requirement for a proposed addition.

Mr. Michael Lewis was sworn in to give testimony for this application.

Mr. Lewis testified that he is requesting a six foot variance from the required front yard setback; that the addition is for additional living space for their home; that there is no homeowners association; that the development was developed in the 1960s; that there are many houses on the street that penetrate much farther into the setbacks than what is being proposed; that the addition will not negatively impact the neighborhood, aesthetics, or integrity of the surrounding area; that he has support from his neighbors; that the average front yard setback, determined by John Roach, was 28.2 feet from the property line; that there is six (6) feet of additional lands between the property line and edge of pavement; that he built the home in 1994; that the lot is smaller in size, 50 feet wide by 122 feet deep; and that the house is located on a private, dead-end road.

Ms. Norwood stated that staff does not believe there are any other variances for the neighboring houses that seem to be encroaching the front yard setback requirements; and that those structure may be legally non-conforming.

Mr. Lewis testified that his parents built the neighboring home to the east in 1968; that the plans for the addition did not want to go any wider to leave space between the neighboring properties; that the proposed addition would not stick out any farther than the neighboring homes; that parking will not be an issue if the addition is approved; that the first floor of the addition will be a 2 car garage with living area above it; that the property can house 5 cars with the addition; that the addition will measure 25 feet by 26 feet; that the house consists of 1,100 square feet and the addition will add 500 square feet to the home; that the size requested is what will suit their needs; that the house does not have much storage space and the addition will provide more livable space; that they considered making the addition smaller but the proposed size is the maximum they would build; that many remodeled homes in the neighborhood are three (3) stories tall but they chose to stay at two (2) stories due to the age of the house; that there is nothing substantially different from his house and the neighboring properties; that the driveway takes up most of the gap between the edge of paving and the front property line; that building on the opposite side of the home would block neighboring properties views; that a majority of the properties in the neighborhood have similar lot dimensions; and that there are no flooding issues in the rear yard.

Mr. Sharp stated that there are thousands of 50 feet by 100 feet lots in the County; that the Applicant needs to demonstrate how the property is unique and that the uniqueness has created a hardship; and that the Applicant is already benefiting from the average front yard setback and the small lot ordinance, both of which provide relief.

Mr. Lewis testified that the addition could be built smaller, taking away the character of the addition; that there will be stairs within the proposed addition and the existing stairs on the side of the house for access; and that there are roughly 33 houses on Martins Way.

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

Mr. Chorman closed the public hearing.

Mr. Hastings moved to approve the application for Case No. 12952 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique conditions due to the size and the buffer zone at the edge of the road;
2. That, due to such physical conditions, there is no possibility of the property can be developed in strict conformity with the code and the variance for the addition is necessary to enable 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 that the addition would fit in with the neighborhood; and
5. The variances represent the minimum variances necessary to afford relief.

The motion failed for lack of a second.

Mr. Williamson moved to deny the application for Case No. 12952 for the requested variances, pending final written decision, for the following reasons:

1. The property does not have unique conditions due to many of the lots in the neighborhood being the same size and shape;
2. The Applicant has failed to demonstrate that there is no possibility of the property can be developed in strict conformity with the Code; and
3. The exceptional practical difficulty is being created by the Applicant.

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

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

Mr. Hastings stated that believes that the property has unique physical conditions.

Case No. 12953 – Jeff and Debbie Micsky seek variances from the front and corner front yard setback requirement for a proposed structure (Section 115-34 of the Sussex County Zoning Code). The property is located South of Cedar Road and West of Walnut Lane within the Keen-Wik Subdivision. 911 Address: 38302 Walnut Lane, Selbyville. Zoning District: MR. Tax Parcel: 533-19.12-92.00

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received 13 letters in support of the Application, zero letters in opposition to the Application, and zero mail returns. The Applicants are requesting a 4.8 foot variance from the 30 foot front yard setback requirement for a proposed dwelling, a 5 foot variance from the 30 foot front yard setback requirement for a proposed dwelling and a 9.89 foot variance from the 30 foot front yard setback requirement for the proposed steps.

Mr. Robert Jeffrey Micsky and Deborah Ann Micsky were sworn in to give testimony for this application.

Ms. Micsky testified that the current home is intended to be removed and the proposed home is to take its place; that the lot is irregular in shape, size, and road construction; that the property is located within the Keenwik on the Bay, a subdivision located off Route 54 in Selbyville; that the house is located on a corner lot at the corner of Walnut Lane and Cedar Road; that the corner front setback is increased to 15 feet instead of the usual 10 foot side yard setback; that the side of the house requiring the variance was stepped in, creating less of a variance needed; that the property is located within a flood zone; that the size of the proposed house is the minimum necessary to allow for storage and accessibility; that the situation was not created by the Applicants as the road cuts into the proposed plans; that the proposed house would stay in character with the neighborhood, being a two (2) story home; that the homeowners association was contacted, shown plans, and gave its approval; that a few neighboring properties have received variances over the past few years; that the size of the proposed home is to allow storage, single floor living, and more space to entertain friends and family; that moving the proposed home five (5) feet towards Walnut Lane would allow for a 25 foot front yard setback, rather than a 30 foot front yard setback; that oncoming traffic would not be affected by the proposed front yard setback variance; and that the original proposed house plans encroached more into the corner front setback but they modified the plans to minimize the variance.

Mr. Micsky testified that the current home consists of 1,100 square feet and the proposed home will be closer to 4,000 square feet; that the proposed home will allow the Applicants to live on one main level instead of having to combat stairs; that the house will have 3,300 square feet of living space and will be a Cape Cod style home; that there will not be anyone else living in the house full-time as only family and friends that come to visit; that the gazebo on the property will be removed; that the Applicants have plans to install a pool in the back yard in the future; that the property is served by public water and sewer; that there is roughly 8 to 10 feet between the edge of pavement and property line on both Walnut Lane and Cedar Road with a slight swale on Cedar Road; there is occasional flooding in the back yard, which is in a flood zone; that the water came within 25 feet of the house during Hurricane Sandy; and that 4 cars total would be able to fit in the driveway within the property boundaries.

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

Mr. Chorman closed the public hearing.

Mr. Williamson moved to deny the application for Case No. 12953 for the requested variances, pending final written decision, for the following reasons:

1. The property does not have unique conditions which have created an exceptional practical difficulty; and
2. The exceptional practical difficulty was created by the Applicants.

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

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

Case No. 12955 – Kenneth and Cynthia Sampson seek a variance from the side yard setback requirement for a proposed structure (Section 115-34 of the Sussex County Zoning Code). The property is located Northeast of North Haven Drive within the Americana Bayside Subdivision. 911 Address: 12409 N Haven Drive, Selbyville. Zoning District: MR. Tax Parcel: 533-19.00-2003.00

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received two (2) letters in support of the Application, zero letters of opposition to the Application, and zero mail returns. The Applicants are requesting a 3.7 foot variance from the five (5) foot side yard setback requirement on the south side for a proposed second-level deck.

Mr. Williamson recused himself and left the Council Chambers.

Mr. Kenneth Sampson was sworn in to give testimony for this application.

Mr. Sampson testified that they had the home built in 2022 with the option to be wheelchair accessible with an elevator; that many homes in the neighborhood have side decks; that the proposed deck would have the supports within the building restriction line and cantilever 3.8 feet into the setback; that there is fireplace bump out on the side of the house where the deck is proposed that will restrict accessibility but, for aesthetic purposes, the size will remain the same; that 4 feet in width is too narrow; that the need for a second story deck is due to the living area being on the second floor; that, when they were building the house, the builder would not add a side deck due to the home not being a model and not a custom home; that the rear enclosed deck does not allow for any sunshine; that the proposed deck would allow for sunlight; that the fireplace bump sticks out roughly 2 feet off the side of the house; that the homeowners association supports the proposed deck; that the lot size and shape is pretty common within the community; that a ground level deck or patio would not work, due to the living area being on the second floor; that there are flooding issues in the area; that they had considered making the deck 6 feet wide instead of the proposed 8 feet; and that the architect did

not mention anything about the fireplace vent on the side of the house or how it would vent if a deck was installed, but they will not be using it if people are on the deck.

Mr. Tom Kelly and Ms. Patricia Kelly were sworn in to give testimony in opposition to this application.

Mr. Kelly testified that they are neighbors; that they are in opposition to the proposed deck as it will impair the views of the golf course from their house; that photographs were submitted for the record to Ms. Norwood, showing the current views from their house; that they are not able to see the fireplace bump out on the side of the house from their house; and that, if you purchased a custom home, the option to add on extra decks and garages were possible.

Ms. Kelly testified that it is her understanding that there would still be another approval required by the homeowners association; that setbacks exist for a reason - to help maintain the aesthetic of the neighborhood and preserve streetscapes and views; that it is not typical for homes in the neighborhood to have side decks; and that the variance sets a bad precedent and is inconsistent with the type of neighborhood Bayside is.

Mr. Sampson testified that, referring back to the photos submitted with the Application, side decks are common within the community; that they are allowed to build a deck, they are just requesting a larger deck to accommodate their needs; that the Kellys have a wrap-around deck; and that the rear enclosed deck provides some views but limits the views and sunlight.

The Board found that no one appeared in support and two (2) people appeared in opposition of the Application.

Mr. Chorman closed the public hearing.

Dr. Carson moved to deny the application for Case No. 12955 for the requested variance, pending final written decision, for the following reasons:

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

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

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

Mr. Warfel added that it is typical to have second-story decks so the request is not unique.

Mr. Williamson returned to the Council Chamber.

Case No. 12957 – Dennis Badders seeks a variance from the side yard setback requirement for a proposed structure (Section 115-25 of the Sussex County Zoning Code). The property is located West of Bowman Road. 911 Address: 3188 Bowman Road, Seaford. Zoning District: AR-1. Tax Parcel: 531-17.00-7.11

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received zero letters in support of the Application, one (1) letter in opposition to the Application, and zero mail returns. The Applicants are requesting a 10 foot variance from the 15 foot side yard setback requirement on the south side for a proposed pole building.

Mr. Dennis Badders and Ms. Sherri Badders were sworn in to give testimony for this application.

Mr. Badders testified that they would like to put up a pole building that will be no wider than the existing driveway; that the building is slightly turned to follow the property line and be the same distance from the property line; that the location was planned so that they can back the camper and truck into the pole building straight from the driveway; that there is a reserve septic system area on the opposite side of the house; that the pole building will be used for storage; that there is an orchard in the rear of the property; that the well is in the front of the house; that the building cannot go in the rear of the house due to the septic system; that they have talked to two of their neighbors, with no opposition; that the shed in the rear of the house was built by the previous owners and used for canning; that the camper and truck would be stored in half of the pole building with the other half for storage; that the building cannot be angled or it would make it too difficult to park the camper; that the camper is 36 feet deep; that a smaller pole building was proposed but would not fit their needs for storage; and that the pole building cannot go in front of the house.

Ms. Badders testified that they bought the property in September 2023; that the building is needed to store the camper, tractor, and other goods of theirs; that, in their previous house there was a basement for storage but there is not one in the current house and more storage is needed; that there is an orchard in the rear of the property; that the well is in the front flower bed; and that a building on the other side of the property would include placing another driveway to access it.

Mr. Al Melson, Ms. Kimberly Grim, and Ms. Marcy Medford were sworn in to give testimony in opposition to this Application.

Mr. Melson testified that he wants the 15 foot setback from the property line; that he owns all three parcels next to the Applicants' property; and that he owns the easement / driveway the proposed building would run parallel to.

Ms. Medford testified that the neighboring property will not be staying the way it is; that, eventually, her and her sister will be putting homes on the neighboring parcel; and that the variance

would interfere with the setbacks of their future homes.

The Board found that no one appeared in support and three (3) persons appeared in opposition of the Application.

Mr. Chorman closed the public hearing.

Mr. Warfel moved to deny the application for Case No. 12957 for the requested variance, pending final written decision, for the following reasons:

1. The property does not have any unique conditions;
2. The property can be developed in strict conformity by building two separate buildings that will comply and be able to fit their camper and truck;
3. The exceptional practical difficulty was created by the Applicants and not by the uniqueness of the property as it is a want and not a need; and
4. The variance does not represent the minimum variance necessary to afford relief as they can build in compliance.

Motion by Mr. Warfel, seconded by Mr. Hastings, carried that the **variance be denied for the reasons stated**. 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. Williamson added that the property is over two acres, he believes that there is a spot on the property that they can use and would be compliant with the Code.

Case No. 12959 – Dan and Robin Wanamaker seek a variance from the front yard setback requirement for a proposed structure (Section 115-25 of the Sussex County Zoning Code). The property is located Southeast of Revel Road. 911 Address: 29257 Revel Road, Millsboro. Zoning District: AR-1. Tax Parcel: 133-16.00-84.00

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received three (3) letters in support of the Application, zero letters in opposition to the Application, and zero mail returns. The Applicants are requesting a 16.4 foot variance from the 40 foot front yard setback requirement for a proposed attached garage.

Mr. Dan Wanamaker and Ms. Robin Wanamaker were sworn in to give testimony for this application.

Mr. Wanamaker testified that the house was not built parallel to the road; that the lot has a trapezoid shape; that the proposed location of the garage is to keep with the aesthetic of the house;

that the interior layout of the house will match up with the proposed shape and size of the garage for interior access; that they have two large cars; that they need a deeper garage due to the cars; that he has a 25 foot truck; that behind the house is the septic drain field; that the neighbor's driveway is extremely close to the front of their property, which would not allow the proposed garage to go on the opposite side of the house; that the proposed garage will house two cars and storage, since the house lacks accessible storage; that the proposed garage will be roughly 28 feet wide, giving enough room for the cars and a staircase to access the second floor; that the house is a Cape Cod style home; that there is roughly eight (8) feet between the edge of pavement and the property line; and that there will not be any steps projecting from the proposed garage.

Ms. Wanamaker testified that the house is located off Revel Road, in between Godwin Road and Lewis Road, across from Ingrams Pond; and that the current house and property does not have a garage.

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

Mr. Chorman closed the public hearing.

Dr. Carson moved to approve the application for Case No. 12959 for the requested variance, pending final written decision, for the following reasons:

1. The property has unique physical conditions;
2. The variance will not alter the essential character of the neighborhood; and
3. The variance represents the minimum variance necessary to afford relief.

Motion by Dr. Carson, seconded by Mr. Warfel, carried that the **variance be approved 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.

ADDITIONAL BUSINESS

Meeting adjourned at 8:47 p.m.