

## MINUTES OF JUNE 3, 2024

The regular meeting of the Sussex County Board of Adjustment was held on Monday, June 3, 2024, at 6:00 p.m. in the County Council Chamber, Sussex County Administration Office Building, Georgetown, Delaware.

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

The Pledge of Allegiance was led by Mr. Chorman.

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.

Motion by Mr. Williamson, seconded by Dr. Carson and carried unanimously to approve the Minutes for the April 8, 2024, meeting. 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.

Motion by Dr. Carson, seconded by Mr. Warfel and carried to approve the Findings of Facts for the April 8, 2024, meeting. 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.

### OLD BUSINESS

**Case No. 12944 – Coastline Properties, LLC** seeks a special use exception for parking and loading requirements and variances from the off-street parking requirements, the front, side and rear setback requirements, and the landscape buffer requirements in the Combined Highway Corridor Overlay Zone (CHCOZ) for proposed structures (Section 115-80, 115-162, 115-82 and 115-194.1 of the Sussex County Zoning Code). The property is located East of Tulip Drive, North of Coastal Highway and West of Savannah Road. 911 Address: 97 Tulip Drive, Lewes. Zoning District: C-1. Tax Parcel: 335-11.00-93.00

Mr. Williamson and Dr. Carson recused themselves and left the Council Chambers.

Ms. Norwood presented the case and stated that the record was closed and the case was tabled

at the meeting on May 20, 2024. The Applicant is requesting a special use exception to remove 37 parking spaces from the 113 parking spaces required, a 20 foot variance from the required 20 foot Combined Highway Corridor Overlay Zone (CHCOZ), a 20 foot variance from the 30 foot rear yard setback requirement from a residential district, a 10 foot variance from the 20 foot side yard setback requirement from a residential district, an 8 foot variance from the 60 foot front yard setback requirement for a proposed building and a 20.6 foot variance from the 60 foot front yard setback requirement for the existing building.

Mr. Warfel moved to approve the Application for Case No. 12944 for the requested 20 foot variance from the 20 foot Combined Highway Corridor Overlay Zone landscaping buffer requirement, pending final written decision, for the following reasons:

1. The property is unique due to its history and due to the existing parking;
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 from the Combined Highway Corridor Overlay Zone requirement is necessary to enable reasonable use of the property;
3. The exceptional practical difficulty has not been created by the Applicant;
4. The variance for the Combined Highway Corridor Overlay Zone will not alter the essential character of the neighborhood; and
5. The variance for the Combined Highway Corridor Overlay Zone 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 3 – 0.

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

Mr. Hastings moved to approve the Application for Case No. 12944 for the requested 10 foot variance from the required 20 foot side yard setback requirement from a residential district on the southeast side for “Proposed Retail Building 2” as shown on the site plan, pending final written decision, for the following reasons:

1. The property is unique due to its physical conditions;
2. The reduced side yard setback will not affect neighboring and adjacent properties;
3. The variance for the reduced side yard setback will not alter the essential character of the neighborhood; and
4. The variance for the reduced side yard setback represents the minimum variance necessary to afford relief.

Motion by Mr. Hastings, seconded by Mr. Warfel, carried that the **variance be approved for the reasons stated**. Motion carried 3 – 0.

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

Mr. Warfel moved to approve the Application for Case No. 12944 for the requested 20.6 foot variance from the required 60 foot front yard setback requirement for an existing building identified as the “Existing Furniture Store” on the site plan, pending final written decision, for the following reasons:

1. The property is unique due to the existing building’s history;
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 reduced front yard setback is necessary to enable reasonable use of the property;
3. The exceptional practical difficulty has not been created by the Applicant;
4. The variance for the reduced front yard setback will not alter the essential character of the neighborhood; and
5. The variance for the reduced front yard setback 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 3 – 0.

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

Mr. Hastings moved to approve the Application for Case No. 12944 for the requested 8 foot variance from the 60 foot front yard setback requirement for a proposed building identified as Proposed Retail Building 3” on the site plan, pending final written decision, for the following reasons:

1. The property is unique due to its physical conditions and due to the takings of the front yard property by DelDOT;
2. The exceptional practical difficulty has not been created by the Applicant;
3. The variance for the reduced front yard setback will not alter the essential character of the neighborhood; and
4. The variance for the reduced front yard setback represents the minimum variance necessary to afford relief.

Motion by Mr. Hastings, seconded by Mr. Warfel, carried that the **variance be approved for the reasons stated**. Motion carried 3 – 0.

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

Mr. Hastings moved to approve the Application for Case No. 12944 for the requested 20 foot variance from the required 30 foot rear yard setback requirement from a residential district for

“Proposed Retail Building 1” as shown on the site plan, pending final written decision subject to the condition that the Proposed Retail Building 1 is not used for restaurant, bar, event space, or similar high traffic uses.

Motion by Mr. Hastings, seconded by Mr. Warfel, carried that the **variance be approved, subject to conditions, for the reasons stated.** Motion carried 3 – 0.

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

Mr. Warfel moved to approve the Application for Case No. 12944 for the requested 37 parking space variance from the required 113 parking space requirement and the special use exception, pending final written decision, for the following reasons:

1. The property is unique physical conditions due to its history;
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 reduced parking space requirement is necessary to enable reasonable use of the property;
3. The exceptional practical difficulty has not been created by the Applicant;
4. The variance for the reduced parking space requirement will not alter the essential character of the neighborhood;
5. The variance for the reduced parking space requirement represents the minimum variance necessary to afford relief; and
6. The special use exception will not affect substantially adversely the use of neighboring adjacent properties.

Motion by Mr. Warfel, seconded by Mr. Hastings, carried that the **variance and special use exception be approved for the reasons stated.** Motion carried 3 – 0.

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

Dr. Carson and Mr. Williamson returned to the Council Chambers.

### **PUBLIC HEARINGS**

**Case No. 12950 – C. Edward and Lynn Lester** 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 South of River Road within the Riverdale Manufactured Home Park. 911 Address: 32344 River Road, Millsboro. Zoning District: MR. Tax Parcel: 234-34.12-37.00

Mr. Sharp recused himself and left the Council Chambers. Mr. Robertson replaced Mr.

Sharp as the Board's attorney for this application.

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received six (6) letters in support of the Application, zero letters in opposition to the Application, and zero mail returns. The Applicants are requesting a 3 foot variance from the 5 foot side yard setback requirement on the east side for a proposed elevator.

Mr. Freddy Bada was sworn in to give testimony for this application.

Mr. Bada testified that he is with Moonlight Architecture; that the Applicants are seeking a 3 foot variance from the 5 foot side yard setback; that Ed Lester has a hard time navigating stairs due to his health; that the property is unique due to being a narrow, waterfront property with a lot of different grade changes throughout the lot; that the house sits in a floodplain, making the elevation of the home mandatory; that there is currently a stairway on the side of the house; that the proposed elevator cannot go anywhere else due to the layout of the house; that the proposal is to remove the existing stairway on the side of the house and install a stair tower into the footprint; that the proposed footprint is just slightly larger than the original footprint due to creating a vestibule to protect the elevator from the outdoor elements; that, at ground level, the elevator will be within the side yard setback but, once elevated, it will encroach; that the elevated portion of the elevator system will need a new foundation system along with the new structure; that there are other means of ingress and egress around the house for others to use; that the Applicants hired him to ensure the proposed structure would not alter the essential character of the neighborhood; and that the request is the minimum variance necessary to afford relief by utilizing the existing footprint from the current stairway.

Mr. Edward Lester and Mrs. Lynn Lester were sworn in to give testimony for this application.

Mrs. Lester testified that letters of support were previously submitted with their application from neighboring property owners.

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

Mr. Chorman closed the public hearing.

Mr. Williamson moved to approve the application for Case No. 12950 for the requested variance, pending final written decision, for the following reasons:

1. The property has unique physical conditions due to the property grade change;
2. The exceptional practical difficulty was not created by the Applicants;
3. The variance will not alter the essential character of the neighborhood; and
4. The variance represents the minimum variance necessary to afford relief.

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

**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.

Mr. Sharp returned to the Council Chambers and Mr. Robertson left the meeting.

**Case No. 12945 – John R. Sears** seeks 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 Northwest of Den Court within the Foxshire Subdivision. 911 Address: 18337 Den Court, Bridgeville. Zoning District: AR-1. Tax Parcel: 131-9.00-72.00

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received one (1) letter in support of the Application, zero letters in opposition to the Application, and zero mail returns. The Applicant is requesting a 5.9 foot variance from the 30 foot front yard setback requirement for a proposed pole building.

Mr. John Sears was sworn in to give testimony for this application.

Mr. Sears testified that the proposed pole building will be used to house his vehicles; that the position of the pole building is due to the nature of the property; that the septic and septic drain field are toward the south side of the property and a fenced in back yard area for the dogs to the northwest side of the property; that the lean-to, as shown on the plans, will be on the west side of the pole building towards the interior of the property; that his well is located in close proximity to the pole building, inhibiting closer placement; that there is a utility/electrical box on the south side of the property with underground wires running across the yard to his house; that the house was built by previous owners and the only added structure was a shed to the north side of the property; that the curvature of the front property line limits the building envelope; that the proposed pole building is the minimum size needed; that the house currently has an attached garage that his wife utilizes; that the house is roughly 1,500 square feet; that there is no homeowners association; that the aerial photo shows a fairly accurate depiction of where the front property line would be in comparison to the edge of paving; that, to his knowledge, the neighboring property owners support the proposed pole building; that the existing shed is approximately 9 foot by 12 foot; and that, if his property were square, he would not need this variance.

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

Mr. Chorman closed the public hearing.

Mr. Hastings moved to approve the application for Case No. 12945 for the requested variance, pending final written decision, for the following reasons:

1. The property has unique physical conditions due to the cul-de-sac and location of the well, septic system, and utilities;
2. That, due to such physical circumstances or conditions, there is no possibility that property can be developed in strict conformity with Sussex County Zoning Code, and the variance is necessary to enable the reasonable use of the property;
3. The exceptional practical difficulty was not created by the Applicant;
4. The variance will not alter the essential character of the neighborhood; and
5. The variance represents the minimum variance necessary to afford relief.

Motion by Mr. Hastings, 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, Dr. Carson – yea, Mr. Warfel – yea, Mr. Hastings – yea, and Mr. Chorman – yea.

**Case No. 12946 – Kenneth Egan<sup>1</sup> and Jean Stuart** 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 East of Holly Oak Lane within the Holly Oak Subdivision. 911 Address: 22315 Holly Oak Lane, Lewes. Zoning District: AR-1. Tax Parcel: 234-11.00-443.00

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 in opposition to the Application, and one (1) mail return. The Applicants are requesting a 2 foot variance from the 15 foot side yard setback requirement on the north side for a proposed garage addition.

Mr. Kenneth Engan and Ms. Jean Stuart were sworn in to give testimony for this application.

Mr. Engan testified that they have letters of approval from both neighboring properties; that the south side of the property is very wet and houses their well; that the other side of the property floods but where the proposed structure will be located is dry; that the proposed structure will be a one-car garage measuring 18 feet by 28 feet; that many neighbors in the development have garages; that the house did not have a garage when they purchased the property; that the proposed garage would sit to the rear corner of the house; that the current driveway goes up to the house and the extension would be a few feet to meet the proposed addition; that they have approval from the homeowner's association architectural board; that a builder will be building the addition; that the measurements are post to post; that the proposed garage will have matching siding to the house, a garage door, and a door on both sides for yard access; and that there will not be any steps at the doors as the addition will be at ground level with small concrete pad.

Ms. Stuart testified that the neighboring property owner has no objection to the proposed

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<sup>1</sup> The Board notes that the agenda incorrectly referred to Mr. Engan as “Kenneth Egan”.

garage; that the property is in a flood zone; and that the other side of the property is subject to flooding.

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

Mr. Chorman closed the public hearing.

Mr. Warfel moved to approve the application for Case No. 12946 for the requested variance, pending final written decision, for the following reasons:

1. The property has unique physical conditions due to its shape, the lack of a garage with the original house, and the property being within a flood zone;
2. The variance 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. Williamson, carried that the **variance be approved for the reasons stated**. Motion carried 5-0.

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

**Case No. 12947 – Dennis and Ann Hanlon** seek variances from the rear yard setback requirement for a proposed structure (Section 115-25 of the Sussex County Zoning Code). The property is located East of Peppers Creek Road and North of South Dogwood Drive within the Dogwood Acres Subdivision. 911 Address: 30794 Peppers Creek Road, Dagsboro. Zoning District: AR-1. Tax Parcel: 134-6.00-200.00

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 in opposition to the Application, and zero mail returns. The Applicants are requesting an 11 foot variance from the 20 feet rear yard setback requirement for a proposed dwelling and a variance of 15 feet from the 20 feet rear yard setback requirement for proposed steps and landing.

Mr. Dennis Hanlon and Ms. Ann Hanlon were sworn in to give testimony for this application.

Mr. Hanlon testified that the home was purchased three (3) years ago; that the home is an existing mobile home, 34 years old, and deteriorating; that there is mold in the ceiling and cabinets and the floors are starting to rot; that the mobile home will be removed and replaced with the proposed dwelling; that the lot is small in size; that the property has numbered roads on two (2) sides creating a front and corner front yard with increased setbacks; that the septic is in the front yard and in working condition; that the existing driveway and shed also inhibit building; that proposed dwelling will sit in

the same location of the current mobile home; that the proposed dwelling is approximately 1,760 square feet; that, given the existing conditions of the property, the proposed location for the dwelling is the only possible location; that the current mobile home is 76 feet by 14 feet; that the proposed dwelling will be stick built by Bay to Beach Builders; that the homeowners association is voluntary but in favor of the proposal; that the proposed dwelling is shorter and more square than the current mobile home allowing more of the home to be within the allowable building envelope; that the rear steps will run parallel to the house to minimize encroachment; that the proposed dwelling is a general model, not custom; and that a two story house was considered but, considering the Applicants' ages and medical conditions, a single story home fit their needs better.

Ms. Janice Tunell was sworn in to give testimony in support of this application.

Ms. Tunell testified that roughly 20 homes have been upgraded and replaced in Dogwood Acres since 2006; that 8 have had to come for variances due to the uniqueness of the neighborhood; that the variance, if approved, will allow the character of the neighborhood to be enhanced; that she is in full support of the Application; and that the proposed dwelling is a modest size that will fit in nicely with the neighborhood.

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

Ms. Norwood noted that no variance is needed for the steps and landing since they are open.

Mr. Chorman closed the public hearing.

Dr. Carson moved to approve the application for Case No. 12947 for the requested variance, pending final written decision, for the following reasons:

1. The property has unique physical conditions due to pre-existing matters associated with the property;
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.

**Case No. 12948 – John McCahan** seeks a special use exception for a temporary tent sale (Section 115-80 of the Sussex County Zoning Code). The property is located North of Lighthouse Road. 911 Address: 38993 Beacon Drive, Fenwick Island. Zoning District: C-1. Tax Parcel: 134-23.00-

### 3.04

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received no correspondence in support or opposition to the Application and zero mail returns. The Applicant is requesting a special use exception for a temporary tent sale.

Mr. Sharp noted that a case was previously denied in 2020; and that the Applicant will have to demonstrate that there has been a substantial change in the conditions or circumstances affecting the property before the Board can entertain the merits of the Application.

Mr. John Tracey, Esquire, appeared on behalf of the Applicant.

Mr. Tracey stated that this application is similar to the one heard in 2020 but with several changes; that there has been no objection to this particular application; that the Applicant is requesting two (2) temporary tent sales; that each sale will be 10 days on or around Memorial Day and Labor Day; that the sales are very important to the Applicant, allowing them to remove older, scratched, or dented products from the showroom; that the dates requested typically generate three times more revenue than a typical weekend; that the tent will be 30 feet by 60 feet, located on the right side of the existing building, covering six parking spaces; that the hours of operation will end at 6:00 pm Monday through Saturday and 5:00 pm on Sundays, which will not conflict with the use of the neighboring property which is generally busier in the evening; that the tent will be secured and watched by its employees; that nine temporary permits have been issued since the previous 2020 application; that the nine permits were only for seven days, instead of the requested 10 days; that the U-Haul rental operation that was previously operating on the property is no longer in business; that the U-Haul business ceased operation on the site 18 months ago; that the Applicant would not object to any kind of condition that the U-Haul business not be restarted on the property; that the U-Haul business was overwhelming the site and was not controlled well; that the previous request was for a 40 foot by 60 foot tent and is reduced to a 30 foot by 60 foot tent; that the previous tent was located more central in the parking lot and now is adjacent to the building to minimize traffic interference; that the northern entrance is shared with the neighboring communities; that there is no interference of construction or spillover parking; that the neighboring community is built out so construction traffic is not as frequent as it was at the time of the earlier application; that no complaints have been made in regards to the current application; that there have not been any concerns expressed to anyone in the store; that the only concerns expressed were about furniture on the sidewalk impeding access to the store; that furniture stores generate low traffic numbers; and that a majority of sales will be done before the neighboring business even opens.

Mr. John McCahan was sworn in to give testimony for this application.

Mr. McCahan testified that there is not currently a tent up; that he believes his father, the owner of the company, has reached out to the neighboring community and received no feedback; that the business next door does not have an issue with the proposed special use exception; that the row

of parking to the side has been reduced to one row allowing more space to the neighboring communities to use; that the U-Haul business typically held 4-8 trucks on the site; that occasionally High Stakes Bar and Grill will overcrowd the parking lot; that they will follow the rulings permitted, using only 10 days for the entire sale, set up to tear down; that a majority of the parking is for the neighboring business; that the statements made by Mr. Tracey are true and correct; that there will not be any lights, loud speakers or similar noises; that hours of operation are from 10:00 am to 6:00 pm Monday through Saturday and 10:00 am to 5:00 pm on Sundays; that his father, John McCahan was the owner and operator when the 2020 application was denied; that the sidewalk on the side of the building will be cleared of furniture for tent access; that there have not been complaints about the tent blocking traffic; and that the Applicant has been proactive on policing the traffic issue on the site.

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

Mr. Chorman closed the public hearing.

Dr. Carson moved to approve the request for rehearing as the Applicant has demonstrated that there has been a substantial change in circumstances and conditions affecting the property due to the removal of the U-Haul trucks, the reduction in the tent size, and the hiring of a new general manager.

Motion by Dr. Carson, seconded by Mr. Williamson, carried 5 – 0.

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

Mr. Williamson moved to approve the application for Case No. 12948 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 but subject to the following conditions:

1. There shall be operation of a U-Haul truck business on the site;
2. The approval is granted for a period of five (5) years;
3. The tent is permitted to be used for a period of ten (10) days surrounding Labor Day and ten (10) days surrounding Memorial Day from the hours Monday through Saturday 10:00 am to 6:00 pm and Sunday 11:00 am to 5:00 pm. and any set up, tear down, and removal of the tent shall be completed within the ten (10) day period.

Motion by Mr. Williamson, 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. Warfel – yea, Dr. Carson – yea, Mr. Hastings – yea, Mr. Williamson – yea, and Mr. Chorman – yea.

**Case No. 12924 – West Side New Beginnings, Inc.** seeks a variance from the maximum fence height requirement for a proposed structure (Section 115-184 and 115-85 of the Sussex County Zoning Code). The property is located North of Burton Avenue and Southeast of Norwood Street. 911 Address: 19801 Norwood Street, Rehoboth Beach. Zoning District: GR. Tax Parcel: 334-13.19-61.00

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received 14 letters in support of the Application, 18 letters in opposition to the Application, and zero mail returns. The Applicant is requesting a 2.5 foot variance from the maximum 3.5 foot height requirement and a variance of 0.5 feet from the maximum 3.5 feet fence height requirement for a proposed fence.

Ms. Truitt stated that the shed was shown over the property line on the survey; and that it was relayed to the Applicant to move it into compliance.

Ms. Brenda Milbourne was sworn in to give testimony for this application.

Ms. Milbourne testified that she is the executive director of the children and youth program; that the traffic has increased in West Rehoboth; that there is no safety around the building for the children; that the proposed fence would act as a preventative safety measure for the children; that the children's program has been in existence for 22 years; that the children's program operates 6:30 am to 3:30 pm; that there are 5 buses accessing the property in the morning and six (6) buses in the evening; that the center facilitates children ages 5-15 years old; that the proposed fence would make a U-turn around the fire hydrant on the corner; that the buses enter the property off Norwood Street and exit onto Burton Avenue; that the shed has been moved into compliance; that the fence will be 5 feet high in the back and no more than 4 feet high in the front; that the fence along the road way will be much shorter for the buses to be able to see; that the fence will be made out of a material that you can see through; that the fence along Burton Avenue will be no taller than 3 or 4 feet tall; that she can make the fence along Burton Avenue 3.5 feet high, the fence along Norwood Street 3.5 feet high, the fence within the 30 foot front yard setback off of Norwood would be 3.5 feet high and elevate to five (5) feet high until the 15 foot corner front yard setback off Burton Avenue; and that she will comply with the code and would like to withdraw her application.

Dr. Carson moved to approve the request to withdraw the Application for Case No. 12924 and return the application fee.

Motion by Dr. Carson, seconded by Mr. Williamson, carried unanimously that the **application for a variance be withdrawn**. Motion carried 4 – 1.

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

**ADDITIONAL BUSINESS**

**Meeting adjourned at 7:55pm**