

## MINUTES OF JULY 15, 2024

The regular meeting of the Sussex County Board of Adjustment was held on Monday, July 15, 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, 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. Hastings, seconded by Dr. Carson and carried unanimously to approve the Minutes for the May 20, 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.

Motion by Mr. Williamson, seconded by Mr. Warfel and carried to approve the Findings of Facts for the May 20, 2024, meeting. Motion carried 5 – 0.

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

## **OLD BUSINESS**

**Case No. 12909 – Andrew and Gladys Bellamah** seek variances from the front and side yard setback requirements for a proposed structure (Sections 115-34 and 115-182 of the Sussex County Zoning Code). The property is located on the northwest side of Wilson Walk within the Bay View Park Subdivision. 911 Address: 39538 Wilson Walk, Bethany Beach. Zoning District: MR. Tax Parcel: 134-20.11-85.00

Ms. Norwood presented the case and stated that the Applicants have requested to withdraw the Application for Case No. 12909 on July 5, 2024, as they are no longer pursuing the proposal.

Mr. Chorman closed the public hearing.

Mr. Warfel moved to approve the Applicants' request to withdraw the application for Case No. 12909.

Motion by Mr. Warfel, seconded by Mr. Hastings, carried that the **request to withdraw the application be approved**. 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.

**Case No. 12958 – Velsuir Ferreira** seeks a variance from the maximum lot coverage requirement for a proposed structure (Section 115-172 G(4) of the Sussex County Zoning Code). The property is located South of Prince Street and West of Kings Lane within the Enchanted Acres Manufactured Home Park. 911 Address: 25850 Kings Lane, Millsboro. Zoning District: AR-1. Tax Parcel: 234-23.00-307.01-16835 Lot 45

Ms. Norwood presented the case.

Mr. Velsuir Ferreira was sworn in to give testimony for this application and Mr. Joesph Mesquita was sworn in to translate for the Applicant.

Mr. Ferreira testified that he is utilizing more than the 35% of allowable lot coverage for his property; that he built a structure he was not supposed to build; that the property is a corner lot where Kings Lane and Prince Street meet; that the porch is existing; that the home was existing on the property when they began additional construction for the porch; that they extended the pavement and placed a cover or roof over a portion of it, causing the increased lot coverage; and that the porch is not closed in; that most properties do not have a curve like his.

Ms. Norwood stated that, if the lot was a proper rectangle, the lot coverage variance would be reduced and that the lot coverage was determined by the inspector, who conducted field inspections.

Mr. Ferreira testified that the porch was built after the concrete pad was poured; that the porch measures 14 feet by 13 feet; that the porch in question is the porch built to the rear of the house; and that neighbors have not complained.

Ms. Norwood stated that the permit was for a 14 foot by 35 foot addition; and that the permit was pulled for a five (5) foot by 14 foot porch and nine (9) foot by 14 foot porch but the rear porch is actually 14 feet by 26 feet.

Mr. Ferreira testified that the porch actually measures 17.6 feet by 13.9 feet; that the porch roof was constructed, then the concrete added; that the site plan shows all, currently existing structures; that the northern side of the house and shed were existing prior to the addition; that the addition included the front covered porch with steps, the addition to the south side of the house, the

rear covered porch with steps and the concrete pad in the rear; that the home and shed were existing prior to owning the property; that the only forms of ingress and egress are through the porches; that the addition that was added is a kitchen; that the prior kitchen was not large enough to serve the Applicant's needs; and that the rear porch is needed for recreation and outdoor living.

Ms. Norwood stated that there was a request from the inspector to change the size of the addition on the permit from 14 feet by 35 feet to 14 feet by 26 feet.

Mr. Ferreira testified that the inspector did not approach him about making the addition smaller; that the addition was completed after the inspector figured out that the addition was too large; that there is no issue with insects on the property; that they are able to park along the front of the property without issue; that there have been no complaints about the addition, only support; that by removing the rear porch, the roof from the addition would be majorly affected; that the addition roof is stick built, not by trusses; and that the shed is roughly 10 feet by 12 feet.

Ms. Norwood stated that the front porch measures 5 feet by 14 feet, the rear porch measures 9 feet by 14 feet, and the shed measures 10 feet by 12 feet; and that, even if the porches were removed, variances would be needed.

Mr. Ken Christenbury was sworn in to give testimony. Mr. Christenbury was neither in support of or against the Application.

Mr. Christenbury testified that Google Maps has a photo of what the addition looks like.

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

Mr. Chorman closed the public hearing.

Dr. Carson moved to approve the application for Case No. 12958 for the requested variance, pending final written decision, for the following reasons:

1. The variance will not alter the essential character of the neighborhood; and
2. The variance represents the minimum necessary to afford relief.

Motion by Dr. Carson, seconded by Mr. Warfel, carried that the **variance be approved for the reasons stated.** Motion carried 4-1.

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

**Case No. 12962 – Michelle Kinsey** seeks variances from the front and corner front yard setback requirements for proposed additions (Section 115-25 of the Sussex County Zoning Code). The

property is located South of Lincoln Drive and West of Tyler Avenue within the Cape Windsor Subdivision. 911 Address: 38827 Lincoln Avenue, Selbyville Zoning District: AR-1. Tax Parcel: 533-20.14-32.00

Ms. Norwood presented the case and stated that the record was left open for a limited purpose. The Applicant seeks the following variances:

1. A variance of 7 feet from the fifteen (15) feet corner front yard setback requirement for a proposed sunroom addition;
2. A variance of 11 feet from the fifteen (15) feet corner front yard setback requirement for proposed steps;
3. A variance of 11 variance from the fifteen (15) feet corner front yard setback requirement for a proposed screen porch addition;
4. A variance of 12.9 variance from the fifteen (15) feet corner front yard setback requirement for a proposed master bathroom addition; and
5. A variance of 3.4 variance from the five (5) feet front yard setback requirement for a proposed master bathroom addition.

Mr. Sharp stated that the Application was left open due to a question about an easement; that, at the prior hearing, Mr. Williamson recused himself and Mr. Hastings was not able to review the record; that only Dr. Carson, Mr. Warfel, and Mr. Chorman will be voting; that there is not a specific utility easement which could be found in the public records; that there is a Delmarva Power blanket easement for the community but it is not specific as to a location on the property; that there is a Sussex County sewer easement which is 20 feet wide on Lincoln Drive; that there is a restrictive covenant that predates the Sussex County Zoning Code and states that no improvement or mobile home or structure of any kind shall be placed within 5 feet of the side yard, 10 feet off the street, or within 15 feet of the bulkhead, nor should any dock, nor shall any dock structures be extended more than 15 feet beyond the bulkhead; that the covenant is not enforced by the Board; and that no information was found in reference to this specific property.

Mr. Chorman closed the record.

Mr. Warfel moved to approve with conditions the variances from the corner front yard setback for the proposed steps and sunroom addition for Case No. 12962, pending final written decision, for the following reasons:

1. The property has unique conditions due to its unusual shape;
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 has not been created by the Applicant;
4. The variances will not alter the essential character of the neighborhood; and
5. The variances represent the minimum variances necessary to afford relief.

This motion to approve was subject to the condition that the Applicant must submit a site plan showing two (2) code-compliant parking spaces on the western side of the property.

Motion by Mr. Warfel, seconded by Dr. Carson. Motion failed 2 - 1.

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

The motion failed for the sunroom and steps, as pursuant to Board Rules, 3 affirmative votes are needed to approve a variance.

Dr. Carson moved to approve the variance request for the proposed screened-in porch for Case No. 12962, pending final written decision, for the following reasons:

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

Motion by Dr. Carson, seconded by Mr. Warfel, carried that the **variance for the screened-in porch be approved for the reasons stated**. Motion carried 3 - 0.

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

Dr. Carson moved to deny the variances for the proposed master bathroom addition for Case No. 12962, pending final written decision, for the following reasons:

1. The exceptional practical difficulty has been created by the Applicant; and
2. The variances do not represent the minimum variances necessary to afford relief.

Motion by Dr. Carson, seconded by Mr. Warfel, carried that the **variances for the proposed master bathroom addition be denied for the reasons stated**. Motion carried 3 - 0.

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

Mr. Warfel stated that the Applicant is asking for too much but would like to offer something.

Mr. Warfel moved to approve variances for the sunroom addition and steps for Case No. 12962 without conditions, pending final written decision, for the following reasons:

1. The property has unique conditions due to its unusual shape;
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 has not been created by the Applicant;
4. The variances will not alter the essential character of the neighborhood; and
5. The variances represent the minimum variances necessary to afford relief.

Motion by Mr. Warfel, seconded by Dr. Carson. Motion failed 1 - 2.

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

Mr. Chorman and Dr. Carson stated that they believe the difficulty has been created by the applicant.

Due to the Applicant's failure to obtain 3 affirmative votes, the variance requests for the sunroom and steps were denied.

### **PUBLIC HEARINGS**

**Case No. 12966 – Raynol Garcia** seeks variances from the rear yard setback requirement for being adjacent to a residential zoned property for proposed structures (Section 115-82 of the Sussex County Zoning Code). The property is located North of Lewes Georgetown Highway. 911 Address: 24163 Lewes Georgetown Highway, Georgetown. Zoning District: C-1. Tax Parcel: 135-16.00-73.01

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 return. The Applicant is requesting a 25 foot variance from the 30 foot rear yard setback requirement from C-1 zoning adjacent to a residential property for proposed structures.

Mr. Raynol Garcia was sworn in to give testimony for this application.

Mr. Ken Christenbury, who was previously sworn in to give testimony, appeared.

Mr. David Hutt, Esquire, appeared on behalf of the Applicant to present the application.

Mr. Hutt stated that the property is situated along Route 9; that Mr. Garcia is the Applicant, owner, and operator of the foundation repair business proposed to be run on the property; that near the property along Route 9 are the Besche furniture business, apartments, flex space warehousing, Peninsula Paving, and an automotive repair business; that west of the Property is additional flex use

warehousing and a dance academy; that the typical setback for a C-1 zoned is 5 feet from the rear property line; that, within the Sussex County Zoning Code, if a commercially zoned property is adjacent to a residentially zoned property, then that changes the setbacks for the rear yard from 5 feet to 30 feet; that the neighboring properties on either side of the property are also zoned C-1 so the 5 feet side yard setback applies there; that the property at the rear of the property is zoned AR-1, requiring the rear yard setback increase; that the rear property is not used for a residential use as the neighbor, Yellow Metal, LLC, has a conditional use on the property for a commercial use; that Peninsula Paving operates on that property and is a light industrial / commercial use; that the property is unique due to topography and physical conditions of the property; that the stormwater management on the property occupies a majority of building area; that, when developing commercial property, it is required to have stormwater management; that there is a small swale near Route 9 but it is not meaningful; that, with the physical limitation brought on by the pond, the variances are necessary in order to develop the property; that the Applicant did not create the stormwater issues on the property; that there are other requirements to develop the property such as parking and drive aisles; that the exceptional practical difficulty was not created by the Applicant; that Mr. Garcia's business will not alter the essential character of the neighborhood as his business is right in line with the other businesses in the area; that the residential property with the conditional use for the business Yellow Metal, LLC, stated they have no objection to the requested variance and also provided a letter of support; that the variances needed are the minimum required to afford relief; and that, even with the variances, there is barely enough room for the various parking, drive aisles, and buildings shown on the plan.

Mr. Garcia testified that he is the owner of the property; that he is familiar with the application as presented; and that the information presented to the record is accurate, true, and correct.

Mr. Christenbury testified that he is familiar with the property; that he was retained by Mr. Garcia to prepare a commercial site plan as shown before the Board; that the information presented was true and correct; that the drainage on the property is very poor, making it a very challenging site; that the photographs, which were submitted with the Application, show the view of the residential property where Yellow Metal, LLC, operates; and that the neighboring property is not used as a residential property.

Mr. Hutt stated that the conditional use on the adjacent, residential property does not have an expiration date; that Yellow Metal, LLC, must comply with the conditions granted for their conditional use and keep an active business or else the conditional use would lapse for lack of use; and that there is no residential activity on the adjacent, AR-1 zoned, property, only commercial via the conditional use.

Mr. Christenbury testified that the letter of support from Yellow Metal, LLC, addresses that there is no longer residential activity on the property; that the property is mostly empty; that the Applicant currently has a small amount of storage towards the front of the property; that the property will be completely redeveloped with a blank slate; that the size of the buildings are the minimum size

needed for the Applicant's needs; that the building on the adjacent property is roughly 50 feet from the Applicant's property line; that the small oval towards the rear of the property, noted on the site plan, was just a wet hole in the ground that someone dug with no permits or any record; that the wet hole will be filled in; that all drainage on the property will be built to drain towards the stormwater pond being built; that stormwater pond takes up roughly 20% of the buildable area of the lot; that the green box, towards the northwest corner of the property, is the septic; that the front yard of the neighboring property on Route 9 is often wet; and that the Applicant operates 30 feet long trucks with booms.

Mr. Hutt stated that, due to the nature of the Applicant's business, two story buildings would not suffice.

Mr. Garcia testified that the large building is necessary to house the pump trucks that are 30 feet long.

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. 12966 for the requested variances, pending final written decision, for the following reasons:

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

Motion by Mr. Hastings, seconded by Mr. Warfel, carried that the **variances be approved for the reasons stated**. Motion carried 4 – 1.

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

**Case No. 12967 – Sea Air Village** seeks variances from the separation distance requirements for proposed structures (Section 115-172 of the Sussex County Zoning Code). The property is located Northwest of Center Avenue within the Sea Air Village Manufactured Home Park. 911 Address: 19798 Center Avenue, Rehoboth Beach. Zoning District: C-1. Tax Parcel: 334-13.00-310.00-3265 Lot 4-C

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received



no correspondence in opposition to the Application and 15 mail returns. The Applicant is requesting a 0.2 foot variance from the 20 foot separation distance requirement between the proposed HVAC and manufactured home on Lot C2, a 2.8 foot variance from the 20 foot separation requirement between the proposed HVAC and landing on Lot C2, a 0.4 foot variance from the 20 foot separation distance requirement between the proposed manufactured home and HVAC on Lot C2, a 7.7 foot variance from the 20 foot separation distance requirement between the proposed shed and manufactured home on Lot C6, an 8.2 foot variance from the 20 foot separation distance requirement between the proposed landing and HVAC on Lot C6, and a 0.4 foot variance from the 20 foot separation distance requirement between the proposed manufactured home and the manufactured home on Lot C6.

Ms. Aimee Bennett was sworn in to give testimony for this application.

Ms. Bennett testified that the unit surrendered to Sea Air Village was from 1964 and was beyond repair; that the previous unit was demolished; that the property is very narrow and laid out in the 1960s before the implementation of the Sussex County Zoning Code; that the proposed manufactured home is roughly the same size as the previous home, only slightly longer; that the lot sizes are small in comparison with modern manufactured homes; that the proposed manufactured home is a standard sized floorplan; that the Applicant is unable to place the home on the lot without a variance; that, by width, the new manufactured home is approximately the same size as the prior manufactured home on the lot; that the narrow shape of the lot and the previous build out of the surrounding lots makes it difficult develop the property within compliance of the Sussex County Zoning Code; that the neighboring HVAC unit encroaches onto the property thereby reducing the ability to build on this lot; that the proposed mobile home nearly fits within the building envelope without variances but the accessory structures need the variances; that proposed mobile home is consistent with others in the neighborhood; that the variances are necessary to enable reasonable use; that the circumstances were not created by the Applicant due to the neighboring lots and narrowness and angles of the lot; that the neighboring lot is also narrow thereby causing development of nearby lots to be nearer to lot lines and neighboring homes; that the rear of the lot is angular reducing buildability at the rear of the lot; that there have been no complaints, only support to the proposed manufactured home; that the variances will not alter the essential character of the neighborhood; that the variances will add to the conformity of the neighborhood and will modernize the home; that the prior home was surrendered to the community owner and could not be reasonably rehabilitated; that the porch was moved to minimize the number of stairs; and that the previous manufactured home was removed roughly two weeks prior.

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

Mr. Chorman closed the public hearing.

Mr. Williamson moved to approve the application for Case No. 12967 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique conditions due to the narrowness of the lot;
2. The variances will not alter the essential character of the neighborhood; and
3. The variances represent the minimum variances necessary to afford relief.

Motion by Mr. Williamson, seconded by Dr. Carson, carried that the **variances 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.

**RECESS 7:42pm – 7:47pm**

**Case No. 12968 – Robert Clayton** seeks a variance from the front yard setback requirement for an existing structure (Section 115-139 of the Sussex County Zoning Code). The property is located North of Sussex Lane within the Mariner’s Cove Manufactured Home Park. 911 Address: 35573 Sussex Lane, Millsboro. Zoning District: VRP. Tax Parcel: 234-25.00-4.00-16899 Lot B24

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 eight (8) mail returns. The Applicant is requesting a six (6) foot variance from the 25 foot front yard setback requirement for a proposed deck.

Mr. Kevin Marmor was sworn in to give testimony for this application.

Mr. Marmor testified that he is representing Robert and Eva Clayton, at the Sussex Lane address; that the property is unique due to it being one of two stick-built homes in the community; that the home runs parallel to the road, unlike the manufactured homes which do not; that the deck was built two (2) feet wider and six (6) feet longer than the original deck that was replaced; that the deck is needed for the owner’s daughter who is bound to a wheelchair; that a handicap ramp will be built at a later date; that the deck does not affect any surrounding properties; that the driveway is able to hold multiple cars even with the larger deck; that the deck makes the home more appealing; that the deck has already been completed and built; that a footer inspection was completed and a final inspection was failed; that there is an eight (8) foot by eight (8) foot platform at ground level, with steps that lead to a 10 foot by 12 foot porch; that the eight (8) foot by eight (8) foot platform was pre-existing and the Applicant added the steps and deck; that owners reside part-time at the property with the hopes of moving here full-time in the future; that the permit was issued in November 2023, with the deck being built in January 2024; that there is roughly three (3) feet between the property line and edge of paving of Sussex Lane; that HOA approval has been received; that he believed that, when building, the setback is taken from the center of the road; and that the house does not run exactly parallel to the property line.

Mr. Sharp stated that the correct variances needed are an 8 foot, 7.2 foot, and 8.5 foot from the 25 foot front yard setback for the structures.

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. 12968 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique conditions due to the size and shape of the lot and the location of the existing dwelling, which do not allow for a deck or porch on the front, which is needed for medical reasons;
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 has not been created by the Applicant;
4. The variances will not alter the essential character of the neighborhood; and
5. The variances represent the minimum variances necessary to afford relief.

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

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

**Case No. 12969 – Tyler Short** 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 North of Ennis Road. 911 Address: 20304 Ennis Road, Georgetown. Zoning District: AR-1. Tax Parcel: 135-14.00-40.00

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received no correspondence in support or in opposition to the Application, and one (1) mail return. The Applicant is requesting a 11.1 foot variance from the 40 foot front yard setback requirement for a proposed addition.

Mr. Tyler Short was sworn in to give testimony for this application.

Mr. Short testified that the variance is for a proposed addition to the existing home, which is small in size; that there is a driveway to the right side of the house and a well in the rear of the house; that the well is located about 10 feet from the house; that, due to the layout of the house, the proposed addition is the only way that affords relief; that he has not talked to neighbors directly adjacent to

him; that the neighbors across the street are in favor of the addition; that there will be steps on the back side of the addition and those steps will comply with the setback requirements; that the addition will be flush with the existing bump out with the front door; that, if the addition lined up with the front of the house, approximately 3-4 feet of the house would be useless; that the house is connected to sewer; that there is a garage in the rear of the property; that there is roughly four (4) feet between the property line and edge of pavement of the adjacent road; that there is a tax ditch accompanied with a significant right-of-way; that there is not an issue with flooding on the property but it is sloped to run to the rear of the property; that the front of the property is higher ground than the rear of the lot; that the house was built before 1946; that the design of the older house creates a hardship when building an addition; and that the house is very small.

Ms. Angela Townsend and Mr. Clayton Townsend were sworn in to give testimony in support of this application.

Ms. Townsend testified that she and her husband have lived across the street from the house for 28 years; that a multitude of renters have been in and out of the house; that it is nice to have a young couple bought the home, completing the neighborhood; that she supports the addition to the house because it is greatly needed; and that the addition will only enhance the neighborhood.

Mr. Townsend testified that he agreed with Ms. Townsend's statements; that the Applicant has done a tremendous amount of work to the house over the years; that there have been many types of people in and out of the house; that it is nice to have a nice, young family, living there full-time; that he has only seen the property have flooding issues once due to the tax ditch being blocked; and that he is completely in favor of the Application.

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

Mr. Chorman closed the public hearing.

Mr. Hastings moved to approve the application for Case No. 12969 for the requested variance, pending final written decision, for the following reasons:

1. The property has unique conditions;
2. The exceptional practical difficulty has not been created by the Applicant;
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. Hastings, seconded by Dr. Carson, carried that the **variance be approved for the reasons stated**. 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.

**Case No. 12970 – Michael Pollock** seeks a variance from the side yard setback requirement for an existing structure (Section 115-42 of the Sussex County Zoning Code). The property is located Northwest of Pintail Drive within the Swann Keys Subdivision. 911 Address: 37005 Pintail Drive, Selbyville. Zoning District: GR. Tax Parcel: 533-12.16-18.00

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received no correspondence in support or in opposition of the Application and one (1) mail return. The Applicant is requesting a 3.5 foot variance from the 5 foot side yard setback requirement on the southwest side for an existing structure, a 0.6 foot and 0.7 foot variance from the side yard setback requirements on the northeast side for the existing deck, landing, and outdoor shower, and a 4.8 foot variance from the five foot side yard requirement on the northeast side for the existing attached shed. Ms. Norwood noted that the property records show the manufactured home was placed on the property in the 1970s and that the shed was added in 1983.

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

Mr. Pollock testified that the variance is needed to close the open building permit and allow them to sell the house; that his father-in-law pulled the building permit on April 11, 2019, for a garage; that the garage was built to store his cars; that his father-in-law has now passed and he and his wife inherited the property and were unaware of any violations on the property; that the violation was brought to the surface when title research was done to sell the property; that it would be a major financial hardship to tear down or modify the garage to comply with the setback requirements; that a car will not fit in the garage, if modified, and defeat the purpose; that the variances will not substantially impair the use or development; that the variances are not detrimental to the public well-being or neighboring lots; that the variances will not alter the essential character of the neighborhood because the garage fits in and was built in line with the trailer; that the garage has been built for five (5) years; that there have not been any complaints about the garage; that the HOA approved the garage prior to it being built; that the garage was built by a contractor; that the garage is built with trusses, making it unable to be modified without demolition; that the property was purchased by his father-in-law in 2016 or 2017; that the outdoor shower, deck and landing were built prior to the garage with no complaints; that the shed was built by a prior owner; that the fence is near the shed; and that the garage fits one car and other accessory items.

Ms. Nina Argento was sworn in to give testimony in support of this application.

Ms. Argento testified that she supports the Application; and that it is necessary to sell the house to avoid financial hardship.

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

in opposition of the Application.

Mr. Chorman closed the public hearing.

Mr. Williamson moved to approve the application for Case No. 12970 for the requested variances, pending final written decision, for the following reasons:

1. The exceptional practical difficulty has not been created by the Applicant;
2. The variances will not alter the essential character of the neighborhood;
3. The variances represent the minimum variances necessary to afford relief; and
4. That it is noted that the Applicant's testimony is credible.

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

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

### **ADDITIONAL BUSINESS**

**Meeting adjourned at 8:29 p.m.**