

MINUTES OF APRIL 13, 2026

The regular meeting of the Sussex County Board of Adjustment was held on Monday, April 13, 2026, 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 Mr. John Williamson presiding. The Board members present were Dr. Lauren Hitchens, Mr. Nate Kingree, Mr. Chuck McClure, and Mr. John Williamson. Mr. Shawn Lovenguth was absent. Also, in attendance were Mr. James Sharp, Esquire – Assistant County Attorney, and staff members Ms. Jennifer Norwood – Planning and Zoning Manager, and Ms. Ann Lepore – Recording Secretary.

The Pledge of Allegiance was led by Mr. Williamson.

Motion by Dr. Hitchens, seconded by Mr. Kingree and carried unanimously to approve the agenda. Motion carried 4 – 0.

The vote by roll call: Mr. McClure – yea, Mr. Kingree – yea, Dr. Hitchens – yea and Mr. Williamson – yea

PUBLIC HEARINGS

Case No. 13163 – The Estate of James E. McAlister seeks variances from the rear and side yard setback requirement for an existing structure (Section 115-25 and 115-183 of the Sussex County Zoning Code). The property is located on the southwest side of Mills Ridge Road. 911 Address: 30830 Mills Ridge Road, Lewes. Zoning District: AR-1. Tax Map: 334-5.00-608.00.

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received one letter in support of the Application, none in opposition and one mail return.

The Applicant is requesting the following variances:

- 1.4 feet variance from the 15 feet side yard setback requirement on the southwest side for an existing structure; and
- 10.6 feet variance from the 20 feet rear yard setback requirement for an existing structure.

Robert McVey was sworn in to give testimony for this application.

Mr. McVey testified that he is representing the Applicant and is the listing agent on the property as part of Mr. McAllister's Last Will and Testament; that the property was originally subdivided in October 1985 and a building permit was issued in January 1987 for the main dwelling with an attached garage; that, in February 1990, there was an addition added over the garage and, in March 1990, there was a deck and steps added to the addition over the garage; that, in August 1991, there was a permit for an unattached garage; that the unattached garage is why they are in need of the variance now; that, when Mr. McAllister and Mr. Rowley purchased the property in 2000, there was

no survey completed; that, when both of them passed away, the property was to be sold per the Last Will and Testament and that is when the survey was completed and found that the unattached garage was not placed in compliance with the property setbacks; that, in the deed from 1985, the setbacks are listed as, front: 40', side: 15' and rear: 20'; that, when the new survey was completed, it was found that the unattached garage was placed with a 1.4' encroachment on the 15 foot side yard setback and a 10.6' encroachment on the 20 foot rear yard setback requirement; that the building permit for this structure has been completed for 35 years now and there has been no complaints or detrimental effects to the neighborhood; that there have been no physical changes to the property since the permits were completed in 1991 and the property had remained the same until the sale brought up the garage placement; that the property is connected to water and sewer and, if there was ever any septic, it was a long time before they took ownership and the well would have been used strictly for irrigation purposes; that the garage measures 26 feet by 28 feet and is slightly over the 600 square foot limit for a 5 foot setback; that there have been no changes to the garage since it was constructed; that there are woods to the rear of the property; that the neighboring property to the southeast side has been sold 2 times since the Applicant purchased the property; that the driveway is on the southeast side of the property; that there is no well or septic on the property but the property likely had a well and septic at one point in time; and that there are similar garages in the neighborhood.

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

Mr. Williamson closed the public hearing.

Dr. Hitchens moved to approve the application for Case No. 13163 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique physical conditions because the property has been like that for 35 years and no issues known;
2. That, due to such physical circumstances and conditions, there is no possibility that the property can be developed in strict conformity with the Sussex County Zoning Code;
3. The variances are necessary to enable reasonable use of the property;
4. The exceptional practical difficulty has not been created by the Applicant;
5. The variances will not alter the essential character of the neighborhood;
6. The variances will not substantially or permanently impair the appropriate use or development of adjacent property;
7. The variances will not be detrimental to public welfare;
8. The variances represent the least modifications of the regulations at issue; and
9. The variances represent the minimum variances necessary to afford relief.

Motion by Dr. Hitchens, seconded by Mr. McClure, carried that the **variances be approved** for the reasons stated. Motion carried 4-0.

The vote by roll call: Mr. McClure – yea, Mr. Kingree – yea, Dr. Hitchens – yea, and Mr. Williamson – yea

Case No. 13165 – Sea Air Village (Lot F99) seeks variances from the separation requirements for proposed structures (Section 115-25 and 115-172 of the Sussex County Zoning Code). The property is located on the southeast side of Atlantic Avenue. 911 Address: 20077 Atlantic Avenue, Rehoboth Beach. Zoning District: AR-1. Tax Map: 334-13.00-310.00-3068.

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received zero letters in support of or in opposition to the Application and fourteen mail returns.

The Applicant is requesting the following variances:

- 10.1 feet variance from the 20 feet separation requirement between the proposed HVAC and the deck on Lot F101;
- 7.9 feet variance from the 20 feet separation requirement between the proposed manufactured home and the manufactured home on Lot F101;
- 7.2-feet variance from the 20-feet separation requirement between the proposed shed and manufactured home on Lot F97; and
- 7.3-feet variance from the 20-feet separation requirement between the proposed shed and landing on Lot F97.

Aimee Bennett was sworn in to give testimony for this Application.

Ms. Bennett testified that she was representing the Applicant and the Applicant is requesting variances on the separation requirements as the manufactured home park was laid out in the 1950s and 1960s prior to the separation distance requirements and now the newer homes do not fit within the space allotted for the lots; that the Applicant is trying to replace a defunct building with a new home with a standard size floor plan similar to others in the neighborhood; that the lot sizes are smaller which makes it harder for the newer homes to fit within the property setbacks and consistent with the current zoning code; that this particular lot has the home to the right with a room built out and a deck that are less than ten feet from the property line; that, due to the uniqueness of the property, the current property cannot be developed in strict conformity with Sussex County Zoning Code; that the Applicant proposes to place a normal width manufactured home that is consistent with new homes and a standard size shed that is consistent with other new homes in the community but the Applicant is unable to do so without violating the separation distance requirements between the neighboring manufactured homes and their accessory structures; that the variances are necessary to enable a reasonable use of the property and, without the said variances, the property cannot otherwise be developed; that the exceptional practical difficulty is not being created by the Applicant, the narrowness of the property greatly limits the buildable area thereof, and the development of the nearby lots, especially those nearer to the lot lines and neighboring homes, have added to that; that all of the

homes on this street are slightly irregular as they are stepped a few feet left of the lot line boundaries, which has created a cascading effect as you go down the road; that each home placement is slightly more to the left than last; that these variances will not alter the essential characteristics of the neighborhood, they will not substantially or permanently impair the appropriate use or development of adjacent properties, nor will they be detrimental to the public welfare thereof; that the Applicant is seeking these variances to add to conformity to the community and to modernize the homes within the community, which will subsequently add value and improve the characteristics of the community and neighborhood; that these variances are the minimum variances necessary to afford relief, and the variances requested represent the least modifications possible as the home is the narrowest currently available and minimizes the need for additional variances on the property.

The Board discussed the case and asked about the size of the home that was chosen and the location of it, creating the need for variances.

Ms. Bennett testified that the Applicant has an ongoing relationship with the manufactured home manufacturer and this home is the smallest model that the manufacturer offers and, for it to be placed on the lots, they are making all of them with decks and landings to fit within the setback envelope; that the shed in the back is the same size as the rest of the neighborhood; that the shed measures 8 feet by 10 feet; that community rules prohibit larger sheds; that the prior home on the property was wider and shorter and closer to Lots F-97 and F-101; that the neighbors all are encouraging to the improvements that are being done to make the neighborhood look better; and that there will be adequate parking alongside the home for two cars front to back.

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

Mr. Williamson closed the public hearing.

Mr. Kingree moved to approve the application for Case No. 13165 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique physical conditions due to the neighboring properties being developed prior to the subject property;
2. That, due to such physical circumstances and conditions, there is no possibility that the property can be developed in strict conformity with the Sussex County Zoning Code;
3. The variances are necessary to enable reasonable use of the property;
4. The exceptional practical difficulty has not been created by the Applicant;
5. The variances will not alter the essential character of the neighborhood;
6. The variances will not substantially or permanently impair the appropriate use or development of adjacent property;
7. The variances will not be detrimental to public welfare;
8. The variances represent the least modifications of the regulations at issue; and

9. The variances represent the minimum variances necessary to afford relief.

Motion by Mr. Kingree, seconded by Dr. Hitchens, carried that the **variances be approved** for the reasons stated. Motion carried 4-0.

The vote by roll call: Mr. McClure – yea, Mr. Kingree – yea, Dr. Hitchens – yea, and Mr. Williamson – yea

Case No. 13166 – Gregory Showell seeks variances from the minimum lot width requirement for two (2) proposed lots (Section 115-25 of the Sussex County Zoning Code). The property is located on the southwest side of Camp Barnes Road. 911 Address: N/A. Zoning District: AR-1. Tax Map: 134-19.00-112.03.

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received zero letters in support of or in opposition to the Application and zero mail returns.

The Applicant is requesting the following variances:

- A 50 foot variance from the required 150 feet lot width requirement for proposed lot 2A
- A 50 foot variance from the required 150 feet lot width requirement for proposed lot 2A

Janelle Showell was sworn in to give testimony for this application.

Ms. Showell testified that they are requesting the variances from the 150 foot road frontage requirement for new lots; that this variances will allow the single parcel to be subdivided into two smaller lots using a shared access easement; that this lot was her father's land and has been intended all along to split it into two separate lots for each of the daughters to build long term homes on; that the property is a legally existing parcel with unique physical characteristics, including its size, shape and limited road frontage; that the property is proposed to be subdivided in a manner that results in interior lots served by a common access point; that the irregular geometry and constrained frontage are peculiar to this parcel and are not generally applicable to surrounding properties; that the circumstances create a practical difficulty that distinguishes this property from others in the area; that the property cannot otherwise be developed because the proposed interior lots would not meet the minimum 150 foot road frontage requirement and cannot be subdivided or developed in strict conformity with the Sussex County Zoning Code without relief; that the variances are necessary to allow reasonable use of the property and these reasons have not been created by the Applicant; that no subdivision or lots have been created and recorded as this process is held up until the approval of the variance requests; that the proposed subdivision and future development are limited to low density single-family residential use consistent with surrounding land uses; that the shared access to Camp Barnes Road provides adequate and safe ingress and egress; that granting the variances will not alter

the essential character of the neighborhood, impair the appropriate use of adjacent properties, or be detrimental to public health, safety, or welfare; that the minimum variances requested represent the minimum relief necessary to permit the proposed subdivision and the Applicant is requesting relief only from the road frontage requirement and is not seeking any use variance or increase in permanent density; that the Applicant will comply with all applicable setback and buffer requirements associated with granting these variances including the 40 feet front yard setback, the 15 feet side yard setback and the 80 feet top of bank setback buffer in the rear yard; that the Estuary community is located on property adjacent to the rear of the property; that neighbors support the request; that there will be a 50 foot buffer; and that sewer is now available and that led to a reduced lot size requirement..

Mr. Sharp stated that, when looking at the lot sizes that it appears the minimum variance necessary does not appear to be met, as it appears that the new lot sizes could potentially be changed to meet the requirements of the road frontage requirement and that, with the current lot sizes being proposed, this does not meet the minimum variance to afford relief standard; that, due to the setback requirements, Lot 2A would have a small building envelope with this subdivision and he asked whether plans been developed to make proper use of that lot if it is granted but with only that small building envelope; that was there any consideration taken in shifting each lot closer to Lot 1 thereby reducing the need for such a large variance and creating a domino effect.

Ms. Showell testified that there has been a written request sent in to the Department of Natural Resources and Environmental Conservation requesting a reduction on the building restriction line in the rear of the property from 80 feet to 50 feet; that they are awaiting their response to that request, so that will allow for a larger building envelope for Lot 2A; that Lot 2A can be developed regardless of whether the DNREC request is granted; that the rear lot line is longer than the front lot line; that the reason they did not shift everything toward Lot 1 is because the drain field for her father's lot is on the southeast side of his property between the house and the proposed lots; that there are no restrictive covenants in place; and the tax ditch is located to the rear of the lots.

Mr. Sharp noted that the rear lot line is approximately 60 feet wider than the front lot line.

Ms. Showell testified that the lots in the Estuary are smaller; that the property to the southwest of the lots is used for a pond in the Estuary; that no neighbors object to the request; and that the property has an irregular shape.

Gregory Showell was sworn in to give testimony in support of the Application.

Mr. Showell testified that the land has been in his family for years and as everyone has passed away so he is trying to set up something to leave his kids down the line; that the lots behind their property used to be part of his family's land that has been sold off and he wants to be sure to leave something to his children; and that the lot line cannot move closer to the house on Lot 1.

Ms. Showell testified that they met with an engineer about moving the lot line closer to Lot 1 but the proposed lot line is as close as they could go.

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

Mr. Williamson closed the public hearing.

Dr. Hitchens moved to approve the application for Case No. 13166 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique physical conditions with an 80 ft. tax ditch in the rear of the property and due to the shape of the property and the location of the drainfield on Lot 1;
2. That, due to such physical circumstances and conditions, there is no possibility that the property can be developed in strict conformity with the Sussex County Zoning Code;
3. The variances are necessary to enable reasonable use of the property;
4. The exceptional practical difficulty has not been created by the Applicant;
5. The variances will not alter the essential character of the neighborhood;
6. The variances will not substantially or permanently impair the appropriate use or development of adjacent property;
7. The variances will not be detrimental to public welfare;
8. The variances represent the least modifications of the regulations at issue; and
9. The variances represent the minimum variances necessary to afford relief.

Motion by Dr. Hitchens, seconded by Mr. Kingree, carried that the **variances be approved** for the reasons stated. Motion carried 4- 0.

The vote by roll call: Mr. McClure – yea, Mr. Kingree – yea, Dr. Hitchens – yea, and Mr. Williamson – yea

Case No. 13177 – Laura V. Bearsch seeks variances from the front yard setback requirement for proposed structures (Section 115-42 and 115-182 of the Sussex County Zoning Code). The property is located on the west side of Shady Ridge Drive. 911 Address: 127 Shady Ridge Drive, Rehoboth Beach. Zoning District: GR. Tax Map: 334-13.00-579.00.

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received zero letters in support of or in opposition to the Application and zero mail returns.

The Applicant is requesting the following variance:

- 15 feet variance from the 30 feet front yard setback for a proposed dwelling.

Laura Bearsch was sworn in to give testimony for this application.

Ms. Bearsch testified that this variance application is a resubmission from one approved by the Board in 2021, when she applied for the same thing; that, thereafter, her parents passed away and she was never actually able to complete the changes prior to the expiration of the original variance approval period; that the proposed home was put on hold; that she is ready to move forward with the build but needs to reapply for the 15 foot variance from the 30 foot front yard setback requirement; that the property is unique because approximately 80% of it is considered wetlands and, even though the property consists of 1/3 of an acre, there is a very shallow buildable area; that the property cannot otherwise be developed; that the property will not even fit a double-wide manufactured home without the need for a variance because the lot is so narrow in size; that the exceptional practical difficulty was not created by the Applicant; that, due to the land's natural topography and the federally protected wetlands, the need for a variance was not created by her; that the variance will not alter the essential characteristics of the neighborhood; that the home will consist of approximately 1,500 square feet and will be at the end of a dead-end road; that other homes in the neighborhood are eclectic and the proposed dwelling will not stand out; that the variance requested is the minimum variance necessary to afford relief; that the home is being built with very minimal extras; that the front porch has been removed and only an overhang remains to limit the amount of space they need to fit the home within the buildable envelope; that the dwelling will be 25-30 feet from the edge of pavement of Shady Ridge Drive; that there have been no changes to the lot since the 2021 application; that the only change is that the proposed dwelling is slightly smaller; that her friends and family own neighboring lots; that the proposal will protect wetlands; that some neighbors have pools in the front yard; that the building envelope is 55 feet by 23 feet and she proposes a building envelope measuring 55 feet by 38 feet; and that the dwelling will measure 32 feet deep with a 4 foot overhang.

Mr. Sharp stated that there are lots in the County that now have wetlands on them and this is one of those lots; that you would not be able to create a subdivision with those lots now; that the County has wetlands regulations but this was a lot that appears to have been created prior to those regulations being put in place; that, if you were to try to do this now, the wetlands would have had to be in a separate common area for the benefit of the community itself and there would have been setbacks from the actual wetlands themselves; that the Applicant is building outside of the wetland area, a lot of it in the building envelope, but partially outside of the building envelope.

Ms. Bearsch testified that they are requesting the building envelope to be increased from 55 feet wide by 23 feet deep to 38 feet in depth; that the increase of the 15 feet is being requested to increase the building envelope that is going to be utilized.

The Board discussed the application and questioned about the topography of the lot pertaining to the slope and wetlands in the rear of the property.

Ms. Bearsch testified that the slope in the rear of the property is not substantial enough to warrant doing a walk-out basement, which would have made the home much too tall; that there is a slight slope with no sharp drop off but then a retaining wall to separate the wetlands from the rest of the property; that they have been working with Ed Linnae and the Army Corps of Engineers and they decided that it would be best if the home stayed several feet off that retaining wall in order to complete repairs to the wall if necessary; that the house will consist of 1,471 square feet; that a lot of houses in the neighborhood are less than 30 feet from the front property line; and that other lots in the neighborhood also have wetlands in the rear yard.

Frank Delia was sworn in to give testimony in opposition to the Application.

Mr. Delia testified that he lives in the neighborhood; that there are 3 undeveloped lots in the neighborhood with similar issues; that there are no storm sewers in the street; that parking is an issue in the neighborhood; that the street is narrow; that drainage is a concern; that he has lived in the neighborhood for 40 years; that he was unaware of the 2021 application; that the retaining wall was built about 5 years ago; that the lots are shallow; that the area is wooded; that the proposal will change the character of the neighborhood; and that he does not have wetlands on his lot.

Ruth Ann Curley was sworn in to give testimony in opposition to the Application.

Ms. Curley testified that she owns a lot across the street from the property; that her lot slopes towards the road; that most of the houses along Shady Ridge Drive are set back 30 feet from the property line; that the proposed dwelling will stick out like a sore thumb; that there is a lot with a pool in the front yard in the neighborhood; and that she opposes the request.

Ms. Bearsch testified that she has no intention of changing the neighbor's drainage; that the property slopes towards the wetlands; that she purchased the property in 2020 and the retaining wall was there prior to her purchase; that the lot was cleared when she was looking at the lot; that she has no intention of parking in the street; that her friends own neighboring lots and intend to construct small houses on those lots consistent with the neighborhood character; that the homeowners association requires submission of plans; that there is no porch proposed; and that she plans to design the house if the Application is approved.

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

Mr. Williamson closed the public hearing.

Dr. Hitchens moved to approve the application for Case No. 13177 for the requested variance, pending final written decision, for the following reasons:

1. The property has unique physical conditions as it has a large area of wetlands on the property in addition to the retaining wall;
2. That, due to such physical circumstances and conditions, there is no possibility that the property can be developed in strict conformity with the Sussex County Zoning Code;
3. The variance is necessary to enable reasonable use of the property;
4. The exceptional practical difficulty has not been created by the Applicant;
5. The variance will not alter the essential character of the neighborhood;
6. The variance will not substantially or permanently impair the appropriate use or development of adjacent property;
7. The variance will not be detrimental to public welfare;
8. The variance represents the least modification of the regulation at issue; and
9. The variance represents the minimum variance necessary to afford relief.

Motion by Dr. Hitchens, seconded by Mr. McClure, carried that the **variance be approved** for the reasons stated. Motion carried 3 - 1.

The vote by roll call: Mr. McClure – yea, Mr. Kingree – yea, Dr. Hitchens – yea, and Mr. Williamson – nay

Mr. Williamson noted that he felt the plan was a concept only and that the design should be completed before coming to the Board.

Case No. 13178 – Kate Judefind & Ronald Herman seeks a variance from the side yard setback requirement for an existing structure (Section 115-25 and 115-183 of the Sussex County Zoning Code). The property is located at the end of Herman Lane. 911 Address: 25035 Herman Lane, Millsboro. Zoning District: AR-1. Tax Map: 234-29.00-39.11.

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received zero letters in support of or in opposition to the Application and one mail return.

The Applicants are requesting the following variance:

- 2.5 feet variance from the 20 feet side yard setback requirement on the northwest for a proposed screen porch.

Jamie Judefind and Kate Judefind were sworn in to give testimony for this application.

Jamie Judefind testified that the Applicants are requesting a small setback encroachment for a screened porch; that the screened porch was constructed approximately 8 years ago as a typical residential improvement intended to enhance the home's livability and enjoyment; that the porch was built in good faith, believing the structure was fully within the property boundaries and consistent

with how porches are normally attached to the back of a home; that the porch has been safely used without any issues, complaints, or concerns from neighbors; that the setback conflict was not visible on the ground and remained completely unknown until recently when her family decided to sell the property and the buyer's survey revealed the 2.5-foot encroachment; that this property has a unique physical condition that directly affects compliance with the Sussex County Zoning Code; that the existing dwelling is oriented at an angle on the lot rather than parallel to the rear property line and, because the setback line is straight and fixed at 20 feet, that angled orientation causes only one rear corner of the porch to encroach approximately 2.5 into the setback; that the property are not located within a residential subdivision and the side and rear of the property is bordered by wooded and forested land, and there is no dwelling directly behind the screened-in porch; that, because of the existing placement and orientation of the dwelling, strict compliance would require removal or substantial reconstruction of the screened-in porch, even though the encroachment is limited to only 2.5 feet at one rear corner and therefore, the porch cannot otherwise be developed; that, once the Applicants became aware of the setback issue, they immediately took steps to correct it; that the Applicants have obtained a proper building permit and a certificate of occupancy; that the Applicants are here today to just resolve the remaining dimensional issue through this variance process; that there have been no complaints about the location of the structure; that the Applicants have no issues with maintaining the structure while remaining on the property; and that the Applicants relied on their builder to their detriment.

Kate Junefind testified that the property has a septic system in the fenced in area shown on the survey; that the porch could not be located elsewhere due to the septic system; that the Applicants relied on the builder to their detriment; that the contractor built the porch; that the house was on the property when the Applicants purchased the property in 2015; that the property is adjacent to Redden Forest; that bugs are a problem in the yard; and that the porch helps with the bug problem.

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

Mr. Williamson closed the public hearing.

Mr. Kingree moved to approve the application for Case No. 13177 for the requested variance, pending final written decision, for the following reasons:

1. The property has unique physical conditions as the owner relied on a contractor to their detriment;
2. That, due to such physical circumstances and conditions, there is no possibility that the property can be developed in strict conformity with the Sussex County Zoning Code;
3. The variance is necessary to enable reasonable use of the property;
4. The exceptional practical difficulty has not been created by the Applicants;
5. The variance will not alter the essential character of the neighborhood;
6. The variance will not substantially or permanently impair the appropriate use or

- development of adjacent property;
7. The variance will not be detrimental to public welfare;
 8. The variance represents the least modification of the regulation at issue; and
 9. The variance represents the minimum variance necessary to afford relief.

Motion by Mr. Kingree, seconded by Dr. Hitchens, carried that the **variance be approved** for the reasons stated. Motion carried 4 - 0.

The vote by roll call: Mr. McClure – yea, Mr. Kingree – yea, Dr. Hitchens – yea, and Mr. Williamson – yea

Case No. 13179 – Neil & Barbara Forster seeks variances from the front yard setback requirement for proposed structures (Section 115-34 and 115-182 of the Sussex County Zoning Code). The property is located on the northeast side of Pine Road. 911 Address: 37642 Pine Road, Selbyville. Zoning District: MR. Tax Map: 533-19.12-52.00.

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received eleven letters in support of and zero letters in opposition to the Application and zero mail returns.

The Applicants are requesting the following variance:

- 5 feet variance from the 30 feet front yard setback requirement for a proposed porch.

John Rego and Neil Forster were sworn in to give testimony for this application.

Mr. Rego testified that he is the contractor for this project and is representing the Applicants; that the prior home on the lot was 15.8 feet from the road; that the community has a 25 feet front yard setback requirement; that, when the drawings for the porch were given to the surveyor, they did not notate that the porch was going to be covered; that the surveyor had the porch drawn onto the survey encroaching into the setback as that is allowed through the County Code for open unenclosed decks; that it was not until later did they discover that there was an issue when they failed the setback inspection because there is no roof over the porch on the survey and yet one was constructed; that the family needs the porch covered and ADA compliant as Mrs. Forster has long term mobility issues; that, in the future, they will construct a ramp to the side of the porch; that the house has an elevator and is ADA compliant; that they have written letters from medical doctors that support this; that they are looking for a covered space to easily enter the home via a wheelchair as that is going to be a need for Mrs. Forster in the future; that, if they were to decrease the size or take the roof off the porch, it would make it unsafe and too small to maneuver a wheelchair on; and that the stoop needs to be this size to accommodate the wheelchair.

Mr. Forster testified that this home is being built as their permanent home and they are trying to make it as comfortable and useable for his disabled wife; that there will be ADA modifications

done throughout and the porch is one of those things; that the variance is needed for long-term accessibility; that his wife has a progressive, cognitive disorder which affects her gait and balance; that his wife could not navigate the prior home; that his wife may need a wheelchair in the future; that the porch provides a safe access to the home; that the covered porch is needed to protect against inclement weather; that the structure meets the homeowners association requirements; that there is no change in the use of the property; that there is no well or septic servicing the lot; and that the lot does not flood.

Mr. Rego testified that the 2018 survey shows the old home and the 2025 survey shows the new home; that they cannot install an ADA ramp in the garage entrance because then it would take up the useable space to park vehicles and that would not work; that the ramp from the front porch will run parallel to the home and will ideally be covered like the deck to prevent the weather from being an issue; and that there is no gap between the edge of paving of Pine Road and the front property line.

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

Mr. Williamson closed the public hearing.

Mr. Kingree moved to approve the application for Case No. 13179 for the requested variance, pending final written decision, for the following reasons:

1. The property has unique physical conditions due to the special needs requirements of the family;
2. That, due to such physical circumstances and conditions, there is no possibility that the property can be developed in strict conformity with the Sussex County Zoning Code;
3. The variance is necessary to enable reasonable use of the property;
4. The exceptional practical difficulty has not been created by the Applicants;
5. The variance will not alter the essential character of the neighborhood;
6. The variance will not substantially or permanently impair the appropriate use or development of adjacent property;
7. The variance will not be detrimental to public welfare;
8. The variance represents the least modification of the regulation at issue; and
9. The variance represents the minimum variance necessary to afford relief.

Motion by Mr. Kingree, seconded by Mr. McClure, carried that the **variance be approved** for the reasons stated. Motion carried 3 - 1.

The vote by roll call: Mr. McClure – yea, Mr. Kingree – yea, Dr. Hitchens – nay, and Mr. Williamson – yea.

Dr. Hitchens stated that she believed the exceptional practical difficulty was created by the Applicants.

ADDITIONAL BUSINESS

Meeting adjourned at 8:12 p.m.