

MINUTES OF AUGUST 17, 2026

The regular meeting of the Sussex County Board of Adjustment was held on Monday, August 17, 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 Mr. Shawn Lovenguth, Mr. Nate Kingree, Mr. Chuck McClure, and Mr. John Williamson. Dr. Lauren Hitchens was absent. Also, in attendance were Mr. Jamie Sharp, Esquire – Assistant County Attorney, and staff members Ms. Jennifer Norwood – Planning and Zoning Manager, and Ms. Jessica Iarussi – Recording Secretary.

The Pledge of Allegiance was led by Mr. Williamson.

Motion by Mr. Lovenguth, seconded by Mr. McClure and carried unanimously to approve the agenda as amended to remove Case No. 13224 from the agenda. Motion carried 4 – 0.

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

Motion by Mr. McClure, seconded by Mr. Lovenguth and carried unanimously to approve the Minutes for the June 15, 2026, meeting. Motion carried 4 – 0.

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

Motion by Mr. Kingree, seconded by Mr. McClure and carried to approve the Findings of Facts for the June 15, 2026, meeting. Motion carried 4 – 0.

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

PUBLIC HEARINGS

Case No. 13220 – Donald & Janene Shipe seek variances from the front yard setback and separation distance requirements for proposed structures (Section 115-25, 115-183, 115-185 and 115-172G(7) of the Sussex County Zoning Code). The property is located to the south side of Birch Road in the Pine Valley MHP. 911 Address: 35668 Birch Road, Rehoboth Beach. Zoning District: AR-1. Tax Map: 334-13.00-164.00-2880.

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

The Applicants are requesting the following variances:

- 2.2 feet variance from the 5 feet front yard setback requirement for a proposed

- manufactured home;
- 13.6 feet variance from the 20 feet separation requirement between the proposed manufactured home and the shed on Lot 39;
- 1.5 feet variance from the 20 feet separation requirement between the proposed manufactured home and the manufactured home on Lot 39; and
- 7.2 feet variance from the 20 feet separation requirement between the proposed manufactured home and the landing on Lot 39.

Donald Shipe was sworn in to give testimony for this application.

Mr. Shipe testified that he and his wife recently purchased this property as a vacation home for their family; that the previous owner was a single man with no family or children and the original home on the lot is a 10' x 50' single wide manufactured home; that the Applicants have four kids; that, in order to accommodate their family of six, the Applicants will need to replace that old manufactured home with something newer and larger; that, when the Applicants purchased the home, the realtor told them it would be no issue to put in a larger manufactured home but, due to the narrowness of the lot, the Applicants will need a variance in order to allow the 16' x 72' trailer to fit on the lot; that the plan is to rid the lot of the sheds that are currently on there and have only the home; that the Applicants plan to clean up the lot and make it more presentable for the neighborhood; that the Applicants have been working with Oakwood Homes to replace the manufactured home and they will also complete the removal of the old one; that the lot is not only narrow but it has an odd shape which limits the area that the home can be placed; that there will be a set of steps on the east side of the dwelling with the HVAC system located behind those steps; that there will be a second door on the west side of the dwelling but there will be no steps there; and that the portion of the property near Birch Road is considered the front yard of the lot.

Mr. Sharp asked about the distance that the steps and the HVAC system will project off the side of the home.

Mr. Shipe testified that the steps and the HVAC system will be approximately 3.5' off the side of the dwelling.

Mr. McClure asked about the amount of parking available with a larger home on the lot.

Mr. Shipe testified that parking will be located adjacent to the east of the dwelling and it will be able to fit one vehicle and he has informed his neighbor on Lot 37 that the driveway will be on that side dwelling.

Mr. Williamson asked if homeowners association approval was required and received and if there were any discussions with the neighbors and whether the neighbors have newer homes or older because, if the neighbors have older homes and decide to upgrade their homes, it may create a domino effect where those homeowners will need variances also.

Mr. Shipe testified that the homeowners association and landlord have approved the plan and the neighbors know that he is planning to replace the home with something newer and that their homes are older; that the owners of Lot 39 replaced their home about 10 years ago and that Lot 37 has an older home that has never been replaced; that the only difference between that lot and his lot is that the neighboring lot has 40 feet frontage where the property only has 32 feet of frontage; and that his lot is smaller than those surrounding him and the neighbors will have more room to work with.

Mr. Lovenguth asked about the sheds that are on the property and if they are going to be removed or replaced.

Mr. Shipe testified that two of the sheds are his and one is the neighbor's shed but they are all going to be removed from the property; that he spoke with the owner of Lot 39 and told him that his shed is on his property and will need to be moved before he replaces the home.

Mr. Sharp asked about the distance from the dwelling to the road and the amount of traffic on that road.

Mr. Shipe testified that there is a grassy gravel area between the setback line and the edge of paving so the distance between the dwelling and the home is more than the 2.8 feet that is shown on the survey; that Birch Road is a lightly traveled road with only himself and his neighbors and one other home across the street on that road; that there will be no issue with sight limitations if they were to put in the newer larger home; that he looked at a 14 foot wide home but that was too small for his family; and that no shed will be needed for his use of the property.

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

Mr. Williamson closed the public hearing.

Mr. Lovenguth moved to approve the application for Case No. 13220 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique physical conditions with the narrowness of the property along with the angles between Spruce and Birch Road;
2. The property cannot otherwise be developed;
3. 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;
4. The variances are necessary to enable reasonable use of the property;
5. The exceptional practical difficulty has not been created by the Applicant;
6. The variances will not alter the essential character of the neighborhood;
7. The variances will not substantially or permanently impair the appropriate use or development of adjacent property;

8. The variances will not be detrimental to public welfare;
9. The variances represent the least modifications of the regulations at issue; and
10. The variances represent the minimum variances necessary to afford relief.

Motion by Mr. Lovenguth, 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, Mr. Lovenguth – yea, and Mr. Williamson – yea.

Case No. 13221 – Shelly Galloway (SG Properties, LLC) seeks variances from the side yard setback requirement for a proposed structure (Section 115-82 and 115-183 of the Sussex County Zoning Code). The property is located to the south side of Long Neck Road. 911 Address: 26246 Kathy's Way, Millsboro. Zoning District: C-1. Tax Map: 234-24.00-46.00.

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

The Applicant is requesting the following variances:

- 15 feet variance from the 20-foot side yard setback requirement on the west side for proposed structures; and
- 15.1 feet variance from the 20-foot side yard setback requirement on the west side for proposed structures.

Shelly Galloway was sworn in to give testimony for this application.

Ms. Galloway testified that there was a storage building in the rear of the property that was destroyed by a fire in April 2026 and needs to be rebuilt; that, since they will be doing that they decided to expand the size of the building and that requires a new variance; that the building will be 30 feet longer than the prior building; that the property has unique characteristics as it extremely narrow which limits the area available for construction while meeting the required setbacks; that the narrowness of the lot makes it impossible to reconstruct the building without a variance of the size needed for the properties intended use; that this condition is specific to the property and creates difficulty in constructing a replacement storage building; that the need for the variance results from the lot's physical dimensions rather than the proposed use of the property; that, without the variances, the property cannot reasonably accommodate a storage building of the size needed for the property's intended use; that the hardship was not created by the Applicant as the narrow width is an existing physical characteristic of the lot and it was not created or altered by the Applicant; that the proposed storage building is intended to replace a building that was destroyed by fire and will remain consistent with the residential character of the surrounding properties; that the need for the variance results from the lots dimensions not from any actions taken by the Applicant; that the requested variances are the

minimum variances to allow construction of a replacement storage building on the unusually narrow lot; and that the proposed location and setback relief have been limited to minimum required to accommodate the building while maintaining compliance with all other applicable zoning codes.

Mr. Williamson asked if the new building is any closer to the property line than the original building was and whether the expansion only on the length of the building.

Ms. Galloway testified that the building will be in the same footprint as the prior one but will be longer; that the building will be no closer to the side yard than the prior building; that the building is used to store golf carts; and that her and her husband own Indian River Golf Carts.

Mr. Lovenguth asked about the buffer zone behind the building and the parking.

Ms. Galloway testified that there is a buffer in the rear of the property; and that increasing the size of the building will not affect any parking.

Mr. McClure asked about the age of the original building.

Ms. Galloway testified that the original building was built in the late 1990s; that the prior building measured 30 feet by 60 feet; and that the prior building measures 30 feet by 96 feet.

Mr. Sharp asked about the reason that the building is placed so far to the one side of the lot and not more centered

Ms. Galloway testified that there is an easement that runs down the opposite side of the lot so they needed the building to be left in the same position as the previous one to allow the easement to continue to be utilized; that they use the lane to gain access to the rear of the property to store extra material and goods; and that the proposed building will store the new golf carts when they come in before they are sold.

Mr. Sharp stated that when applying for the variance there needs to be the potential to bring the structure into compliance and what is preventing that from happening considering there is a blank slate that they are working with since the building is gone.

Ms. Galloway testified that the lane runs from Long Neck Road all the way to the rear of the property and there are other buildings in the front that sit along the same side of the property; that those buildings were constructed by a prior owner; and that, due to that position of the lane, the building cannot be moved in from the side.

Mr. Sharp asked if there have been any complaints from the neighbors about the location of the prior structure; how much traffic is on the lane going to the back of the property; how tall will the new building be; how tall was the previous one; whether there is well and septic on the property; and

where are they located.

Ms. Galloway testified that there are no complaints from anyone about the building; that there is no real traffic except themselves; that the new building will be 16 feet tall which is the same height as the previous one; and there is a well and septic on the lot but she will need her husband testify as to the location of it.

John Galloway was sworn in to give testimony for this application.

Mr. Galloway testified that the well is approximately 30 yards behind the current building's location and there is no septic; that the reason that they cannot move the building closer to the middle of the lot because they have a shed on the opposite side of the lane; that the property to the east provides boat storage and the property to the west has manufactured homes; that the Applicant leases land to the east of the lane to store golf carts as well; and that the building will have the same footprint as the prior building but will be longer.

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

Mr. Williamson closed the public hearing.

Mr. McClure moved to approve the application for Case No. 13221 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique physical conditions due to the narrowness of the lot, and the new building will be located in the same location as the original one;
2. The property cannot otherwise be developed;
3. 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;
4. The variances are necessary to enable reasonable use of the property;
5. The exceptional practical difficulty has not been created by the Applicant;
6. The variances will not alter the essential character of the neighborhood;
7. The variances will not substantially or permanently impair the appropriate use or development of adjacent property;
8. The variances will not be detrimental to public welfare;
9. The variances represent the least modifications of the regulations at issue; and
10. The variances represent the minimum variances necessary to afford relief.

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

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

Case No. 13222 – Oyster Haus, LLC seeks variances from the front yard and corner front yard setback requirements for a proposed structure (Section 115-82 and 115-183 of the Sussex County Zoning Code). The property is located at the corner of Oyster House Road, Bald Eagle Road and Coastal Highway. 911 Address: 37458 Oyster House Road, Rehoboth Beach. Zoning District: C-1. Tax Map: 334-19.08-31.00.

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

The Applicant is requesting the following variances:

- 45 feet variance from the 60 feet front yard setback requirement for a proposed structure;
- 37 feet variance from the 60 feet front yard setback requirement for a proposed structure;
- 7 feet variance from the 15 feet rear yard setback requirement for a proposed structure;
- 9 feet variance from the 15 feet rear yard setback requirement for a proposed structure; and
- 1 foot variance from the 15 feet rear yard setback requirement for a proposed structure.

Todd Roselle was sworn in to give testimony for this application.

Mr. Roselle testified that this property is the home of Blue Rock Financial Group; that the Applicant purchased this space in 2022 and needs more space for employees as the business has grown significantly and they would like to add a structure to accommodate the growth that they have seen; that this is an office building not a retail establishment; that they have a solution on the back end of the property if they ever have a need for additional parking; that PENCO has allowed the Applicant to park in their lot as the Applicant can accommodate nine vehicles but, if the Applicant ever needed more, that can be accommodated on the back end of the property adjacent to PENCO; that, when the Applicant purchased the property, Blue Rock did a fair amount of diligence as to whether or not this was a good investment, this was by far the largest investment that Blue Rock ever made in anything and purchased this building in 2022; that the Applicant wanted to make sure that the risk was going to be worth it; and that visibility along Route 1 was a big reason as to why the Applicant purchased the property.

Conor Nally was sworn in to give testimony about this application.

Mr. Nally testified that the property has a lot of already existing non-conforming setbacks; that the last property owner, Ashton Pools, went through a variance in 2019 to get various setbacks

from Oyster House Road and Coastal Highway; that, given the unique nature of the property, there is no way to expand their existing business without having to get an adjustment to the existing setbacks; that his role in this project is both the representative for the Applicant but also the intended general contractor; that they looked at different options with them for potential expansion, both from an aesthetic standpoint, cost effectiveness standpoint, and for the usability of the future employees to occupy the space and that location really made the most sense for them, especially when talking about attaching to an existing building, trying to expand either north on the plan or east; that it would be more cost prohibitive for them. and would disrupt the Applicant's current employees as well; that this potential option allowed them to not have to move everyone out to essentially rebuild the whole building all at once; that the proposal will not materially change the character of the neighborhood, the majority of people along Oyster House Road are commercial businesses; that the intent is to stay an office building; that the Applicant is not changing this to any mixed-use or multifamily and the Applicant is not going to be increasing traffic; that the primary use of this is for employees; that the Applicant does not have walk-in traffic; that the only time the Applicant brings in clients is for specific scheduled meetings; that, as they have grown and expanded, they are really crammed in the existing building; that it does not offer a lot or any real opportunities other than expansion; that this property, has a unique shape and there is no way to get around having to come before the Board for a setback variance, which is really focused on the front of the property along Oyster House Road and then the rear along Coastal Highway.

Mr. Williamson stated that this is a unique piece of property; that it has a very small building window; that the Applicant was not the original owner or not part of the original application; and asked whether somebody had this property and the Applicant purchased this from them.

Mr. Roselle testified that the original application was from Ashton Pools from 2019; and that they have a copy of those Findings of Fact that they will submit into record for the Board to review.

Mr. Kingree asked about the surrounding properties and their use.

Mr. Roselle testified that there is a cemetery on the far side across Oyster House Road with a community in the back also.

Mr. Kingree stated that the property is kind of closed in by roads and it is not so much the concern of other neighboring properties, but the visibility because it is a proposed two-story structure; that the visibility for traffic coming through there will be affected; and that that corner on Oyster House is a cut through to Route 1 and is already blocked by trees.

Mr. Nally testified that the intent is to even match the heights and they are not going above the existing kind of site line along Oyster House Road as well.

Mr. Williamson asked whether there was any consideration given to backing that building for the most part out toward behind the existing building and instead of going out towards Route 1 North.

Mr. Roselle testified that there was consideration into moving the placement of the building and that the Applicant would actually lose parking; that, if the parking was moved to the front of the building, there would be a maximum of six spots; that is why the Applicant did not go in that direction and the Applicant would more than likely have to move the entrance.

Mr. Nally testified that the other issue that was brought up with moving the placement was it would disrupt their existing services more; that, from a construction standpoint, if this was approved, the intent would be to build the majority of the building and do the connection to the existing structure last; that moving the structure would be tight back there and they would be connecting the roof lines more, while creating more temporary construction which would have more effects on the staff; that then they would have everyone going fully remote during that portion of time; that that is when they looked at the other side of the building and it would give the Applicant a little bit more space and the impact to their employees would be less than having that side of the building be built and the Applicant would not lose parking that way.

Mr. Williamson asked were there any thoughts given to a smaller building, possibly a one-story building, since visibility with the two-story building will be limited.

Mr. Roselle testified that the trees are in the same location as where the proposed building will be and there are no issues with visibility now.

Mr. Williamson stated that there is a difference between trees and the visibility through them and the placement of a two-story building.

Mr. Roselle testified that there was consideration taken into making a smaller one-story building but there is need for expansion of the office space and conference rooms, which would require a second story due to the buildable area.

Mr. Sharp stated that with the proposed second story building the square footage of the total structure would double what is currently there, which would require more parking spaces and that a verbal agreement between the neighboring business does not meet the standards as required by the Sussex County Zoning Code; that, if the neighbor decides not to let the Applicant use the neighbor's parking area, then the nine spaces that are currently on the property will not be enough for an almost 5,000 square foot building; that one of the things that the Board also has to look at is the potential uses this building could be in the future, and that seems to me to be a problem as the parking regulations do not comply with requirement for that square footage; that that would be something the Planning and Zoning Commission and the office would be looking at, if the ratios match up for what is being proposed.

Mr. Nally testified that the current ratio would require more off-site parking, which is why, before starting this application process, Mr. Roselle went to the neighbor to ensure they had the ability

to have any additional parking needs met by that adjacent lot; that, due to the site's restrictive size, the Applicant cannot expand the existing parking and add anything to the existing building.

Mr. Sharp stated that the thing to look at is buildings because, once they are built, they are not going away typically in two years, five years, 10 years, 20 years from now; that a new neighbor can come in and say that the Applicant is not allowed to park there anymore; that the Applicant would then have a 5,000 square foot office space with 9 parking spaces which poses a problem for the occupant of that building and anybody coming in there; that there are five standards that need to be met when granting a variance and one of those is that the variance requested is the minimum variance to afford relief and the variance is necessary to enable the reasonable use of the property; that there is significant case law in this, and the variance is not just granted variance because the Applicant wants it or because the Applicant wants to expand the property; that the Applicant needs to demonstrate why that variance is needed; and he asked whether there testimony on how this the minimum variance to afford relief and why is this proposed use a necessary and reasonable use of the property.

Mr. Roselle testified that inside the property everyone is on top of each other; that the Applicant made it work for the space that it has; that there are people in an upstairs area where they hit their head on the ceiling; that the Applicant does not intend to use those spaces in the new configuration; that there are three people in that space alone; that that space is going to be converted back to storage, which is what it was when Ashton Pools had the property; that the Applicant has doubled up seating inside the building to accommodate for the growth; that the plan is to move everybody out of the existing building so that there is more room to operate and they are not on top of each other; that there are four people that share an area; that no one can be on the phone at the same time; that the Applicant's intention is to create the office space for those individuals; and that the Applicant's intent is to utilize the existing structure as a conference room and a kitchen once approved.

Mr. Sharp asked about the current porch and if there will be an additional porch structure on the new building and the area between the edge of property and roadside and if there is an additional amount of space.

Mr. Nally testified that the current porch that is there will remain and they will most likely add to it with stairs going down to grade but there will be no roof or enclosure to it and that there is approximately 15 feet between the property line and the edge of paving of Oyster House Road and approximately 30 feet between the property line and the edge of paving of Route 1; and that there have been no complaints about the existing building.

Mr. McClure stated that the expansion for the current operation is for the people who currently work there and not for future employees but on the Application the Applicant stated that it wanted to ensure the practice can properly expand and hire new employees and he asked whether the Applicant expects to hire new employees or just make room for the current staff.

Mr. Roselle testified that the Applicant is not planning to expand but, at some point in the future of the business, ten years from now, the Applicant will probably have more people at the same time in the office; that the Applicant has two offices, one in Rehoboth and one in Wilmington; that the Applicant has the ability to expand in general in both locations essentially and the Applicant has quarterly meetings where staff all get together and sometimes all nine people are together at one location; and that nine cars can park comfortably and ten cars can park uncomfortably on the lot.

Ms. Norwood stated that she found the e-mail in the file stating that it appears there are structures, the sign and the retaining walls outside of the property line along Coastal Highway, and they are not permitted and shall be removed; that the email was dated April 27, 2026, and Planning and Zoning responded back in July, asking for that red notation on the survey; that staff need to see those structures are in compliance or they are going to be removed; that there is no further e-mail correspondence for the sign; that there was a permit issued for a sign back in 2025 but no CO was issued as the sign is located on state land.

Mr. Sharp asked when the sign was originally placed on the property and the history of the permits for it.

Ms. Norwood stated that the original sign was put in by Ashton Pools in 2012 and then a new permit was issued in 2017 and then Blue Rock Financial requested to install an electronic message center in 2025; and that all three of these signs were permitted in the same location.

George Pannarello was sworn in to give testimony in opposition to the Application.

Mr. Pannarello testified that he owns the business diagonal across Oyster House Road from Blue Rock Financial's current building; that he met with Mr. Roselle and walked the property to discuss the proposal of this application and the issues that can arise from the building being constructed where they are proposing; that he noted that the intersection there has been a disaster for decades and placing that large of a structure on that corner will just enhance the issues that are already there; that over the last 22 years that he has been in business there have been thousands of close calls and many accidents that have happened at this location due to the awkwardness of the intersection to begin with; that there is a church, housing, PENCO, the food bank, and a restaurant nearby; that Ashton Pools put a display pool up in the area where the building is proposed and the pool blocked views; that he believes the proposed building will block views in a manner similar to the pool; that he is not in opposition to the project but rather the design and location of the project itself; that he offered his opinion to Mr. Roselle about moving the structure to the other side of the current building to limit the disruption in visibility; that the trees that are currently in the location of the proposed building are already an issue and create a sight limitation and, if they replaced trees with a large two-story building, there will be no sight lines at all.

Mr. Roselle testified that the intersection is a slow turn; that there has been one accident at the intersection since 2009; that trees also affect traffic visibility; and that there is no material change to the view.

Mr. Nally testified that the site has not yet been designed with elevations.

Mr. Roselle testified that the drive aisle is why the south side of the property is not used for the building; and that the Applicant would lose parking spaces if the building was constructed on the south side.

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

Mr. Williamson closed the public hearing.

Mr. Lovenguth moved to table this application for further discussion at the end of the meeting.

Motion by Mr. Lovenguth, seconded by Mr. McClure, to table this application until the end of the meeting. Motion carried 4-0.

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

Mr. Kingree moved to re-open the record for Case No. 13222 for additional questions.

Motion by Mr. Kingree, seconded by Mr. McClure, to re-open the record for Case No. 13222 for additional questions. Motion carried 4-0.

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

Mr. Kingree asked if it was possible to have a traffic study conducted to recognize the number of accidents and traffic issues at this intersection.

Mr. Williamson stated that he does not think that would be a necessary proposal considering the time and money that would be associated with that kind of study; that there is historical data available already and the Board can always reference that if necessary.

Mr. Roselle testified that he did not want to have to create a traffic study as the proposal would not create additional traffic.

Mr. McClure moved to deny the application for Case No. 13222 for the requested variances, pending final written decision, for the following reasons:

1. While the property has some unique physical conditions, the property can otherwise be developed;
2. The property can be developed in strict conformity with the Sussex County Zoning Code;
3. The variances are not necessary to enable reasonable use of the property;
4. The exceptional practical difficulty has been created by the Applicant;
5. The variances will alter the essential character of the neighborhood;
6. The variances will substantially or permanently impair the appropriate use or development of adjacent property;
7. The variances will be detrimental to public welfare;
8. The variances do not represent the least modifications of the regulations at issue; and
9. The variances do not represent the minimum variances necessary to afford relief.

Motion by Mr. McClure, seconded by Mr. Lovenguth, carried that the **variances be denied** for the reasons stated. Motion carried 4-0.

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

Case No. 13223 – David Artrip seeks a variance from the separation distance requirements between a structure and proposed structures (Section 115-82 and 115-188 of the Sussex County Zoning Code). The property is located to the northeast side of Chatham Lane within the Fairfield at Long Neck community. 911 Address: 26765 Chatham Lane, Millsboro. Zoning District: C-1. Tax Map: 234-30.00-8.00-B19-4.

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

The Applicant is requesting the following variance:

- 11.4 feet variance from the 40 feet separation requirement between units for a proposed deck.

David Artrip was sworn in to give testimony for this application.

Mr. Artrip testified that he is proposing to install a 10 foot by 20-foot deck on the first floor of his home with half being an open deck and the remainder a covered, screened-in porch; that his property is similar to nearby properties; that the units are in rows close together; that his section of the development is the only section where homes do not have the decks and that is due to the distance between structures; that, in other sections, there is more room for clearance; that the proposed deck

will not interfere with anything; that the homeowners association gave permission under the stipulation that there is approval from the Board of Adjustment; that the neighbors that he could contact were ok with the proposal; that there is common area to the rear of the unit; that there are 7 units on his block that do not have decks; that, out of the 200 units in the neighborhood, approximately 150 have decks; that his unit currently has a rooftop deck but no deck on the rear of the property; that neighbors to the rear have patios and pavers; that his garage is on the first floor; that the deck will come out over the second floor; that he could walk under the deck; and that there is nothing to stop neighbors from seeking similar relief.

Mr. Williamson stated that one of the standards that the Applicant has to meet is that this will not alter the essential character of the neighborhood and that it also is not going to be something that basically nullifies the Sussex County Zoning Code; that the Zoning Code has a 40-foot separation distance between townhome units and the Applicant's proposal will extend rather significantly from the second floor of the Applicant's unit out with an elevated deck and a screened-in porch; asked what would stop the Applicant's neighbor to the rear or the neighbor to the side from doing the exact same thing and having a domino effect; that doing so would reduce the separation to 20 feet; and asked, if the Board approves this application, what would stop any of the neighbors from seeking the same relief; and asked what is unique about the property that would justify granting the variance as compared to anyone else.

Mr. Artrip testified that he has owned the property for 9 years now and is looking to have outdoor access off the kitchen and that is located on the second story; that he currently would have to walk down to the patio on the ground level from the kitchen on second floor to enjoy the outdoor space; that they are getting older and it is hard to manage all of the stairs; that neighbors have patios; that the ones with enclosed areas are near open areas; and that he owns about 20 feet beyond the rear of the unit.

Mr. Williamson stated that the reason for the separation distance requirement between townhomes and condos is due to fire safety and concern of transference from one unit to another; that by allowing the deck to be built and the separation distance to be decreased there is a higher potential for fire safety issues.

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

Mr. Williamson closed the public hearing.

Mr. McClure moved to deny the application for Case No. 13223 for the requested variance, pending final written decision, for the following reasons:

1. The property does not have unique physical conditions which have created the exceptional practical difficulty for the Applicant.;

2. The property can otherwise be developed;
3. That the property can be developed in strict conformity with the Sussex County Zoning Code;
4. The variance is not necessary to enable reasonable use of the property;
5. The exceptional practical difficulty has been created by the Applicant;
6. The variance will alter the essential character of the neighborhood;
7. The variance will substantially or permanently impair the appropriate use or development of adjacent property;
8. The variance will be detrimental to public welfare;
9. The variance does not represent the least modification of the regulation at issue; and
10. The variance does not represent the minimum variance necessary to afford relief.

Motion by Mr. McClure, seconded by Mr. Kingree, carried that the **variance be denied** for the reasons stated. Motion carried 4-0.

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

ADDITIONAL BUSINESS

Meeting adjourned at 8:02 p.m.