

MINUTES OF AUGUST 18, 2025

The regular meeting of the Sussex County Board of Adjustment was held on Monday, August 18, 2025, 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 John Williamson presiding. The Board members present were Mr. Shawn Lovenguth, Dr. Lauren Hitchens and Mr. Nathan Kingree. Also, in attendance were Mr. James 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 Dr. Hitchens and carried unanimously to approve the agenda. Motion carried 4 – 0.

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

PUBLIC HEARINGS

Case No. 13101 – John and Sharon Troiani seek variances from the rear and front yard setback requirements for existing structures (115-25, 115-182 and 115-183 of the Sussex County Zoning Code). The property is located on the north side of Gull Drive within the Joy Beach Subdivision. 911 Address: 8 Gull Drive, Lewes. Zoning District: AR-1. Tax Map: 234-12.00-115.00

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

The Applicants are requesting the following variances:

- A 3.4 ft. variance from the 20 ft. rear yard setback requirement for an existing dwelling and deck; and
- A 0.8 ft. variance from the 15 ft. side yard setback on the west side for an existing dwelling.

Mr. Sharp noted that the side yard variance request was not advertised so the Board cannot consider that request.

John & Sharon Troiani were sworn in to give testimony about the Application.

Mr. Troiani testified that the home exists within the rear yard setback and now the Applicants want to raise it; and that the Applicants were told they would need a variance to make it to come into compliance with the County Code.

Mrs. Troiani testified that the dwelling needs to be raised; that the property is subject to flooding; that the house will be raised 10 feet; that other homes in the neighborhood have been elevated due to flooding; that the house is a single-family ranch dwelling; that the house will meet the height requirements; that the house will be located in the same footprint; that the Applicants are trying to raise the house outside the flood plain; that the garage will be located on the first floor; that no homeowner association approval is required; that the Applicants have owned the property for 30 years; that water has come within 8 inches of the dwelling; that the dwelling was in the current placement with the deck when they purchased the home and they are not moving it any closer to property lines, they are only elevating it to prevent flooding; that they are not doing anything different than that of their neighbors as they have several photos of neighboring homes who have elevated their home to prevent flooding that is now occurring; and that they are, in a sense, being forced to do this to lift the home above the floodplain level.

Mr. Troiani testified that the prior owner never received final inspection for the house; that the steps will be widened to allow furniture to be moved into the house; that the house is located on a concrete block foundation; that the proposed elevation would be on concrete pillars; that the neighbors support the request; that there have been no complaints about the location of the dwelling; and that the steps and deck will be 7 feet wide.

Mr. Sharp asked about the length of ownership, the history of flooding on the property and the reason that the Applicants are not moving the home when elevating it.

Mr. Troiani testified that the Applicants have owned the property for the last 30 years and have made no changes to the structure until now; that the property is flooding more frequently but not enough to put in an insurance claim so they need to elevate the home to prevent further damage; that they could not move the home because it is being elevated on its existing concrete foundation and, in order to move the home, into setback compliance they would need to dig new footers and that would not be cost effective.

Mr. Sharp asked Mrs. Norwood if there was a need for the side yard variance being it was under a foot.

Mrs. Norwood stated that because the side yard variance being requested was under a foot, staff could approve that administratively and it does not need to be decided by the Board.

Donald Barbro was sworn in to testify in favor of the Application.

Mr. Barbro testified that he lives across the canal from the Applicants and fully supports what they are doing as it is consistent with everything being done within the neighborhood since all of the flooding that has occurred; and that he has had fish in his garage due to flooding.

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

Mr. Williamson closed the public hearing.

Mr. Lovenguth moved to approve the application for Case No. 13101 for the requested rear yard variance, pending final written decision, for the following reasons:

1. The property has unique physical conditions due to its proximity to the water;
2. There is no possibility 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 uses of neighboring properties;
7. The variance will not be detrimental to the public welfare;
8. The variance represents the minimum variance necessary to afford relief; and
9. The variance represents the least modification possible of the regulation at issue.

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

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

Case No. 13104 – Kelly and Philip Brady seek variances from the side and rear yard setback requirements for proposed structures (Section 115-25 and 115-183 of the Sussex County Zoning Code). The property is located on the northwest side of Turtle Dove Drive within the Dove Knoll Subdivision. 911 Address: 19 Turtle Dove Drive, Rehoboth Beach. Zoning District: AR-1. Tax Map: 334-6.00-1087.00

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received two letters of support, zero letters of opposition, and zero mail returns.

The Applicants are requesting the following variances:

- A 5 ft. variance from the 15 ft. side yard setback requirement on the southwest side for a proposed pole building with a lean-to; and
- A 15 ft. variance from the 20 ft. rear yard setback requirement for a proposed pole building with a lean-to.

Kelly Brady and Phil Brady were sworn in to give testimony about the Application.

Mrs. Brady testified that the Applicants want to place a pole building in the rear of the property; that the pole building is proposed to be situated where it is five (5) feet off the rear property line rather than the twenty (20) feet that is required and ten (10) feet off the side yard property line rather than the fifteen (15) feet that is required; that there is an open field behind the property and the building would not affect anyone behind them; that the homeowners association approved the proposed placement of the the building five (5) feet off the rear pending the approval from the Board; that they need this placement due to the position of the pool in their yard and the ability to back a boat trailer up into the pole building; that the other side of the property has the well and utilities so it is not possible to place it on that side of property; that they are planning to extend the current driveway all the way to pole building so that they can drive their boat trailer right back into it; that there are pole buildings throughout the community and they have received support from their neighbors to have this put in where they are requesting to; and that the shed will be removed; that the development owns the land behind them and it was listed as common area on their paperwork when they bought the home.

Mr. Brady testified that the community was going to have a clubhouse back on that land but it was denied and now it is just an empty lot.

Mrs. Brady testified that the neighborhood used to be on septic but is now on a sewer system; that the pole building will measure 50 feet by 30 feet; that the pool was located on the property when the Applicants purchased the property; that the Applicants looked at other options; that there is no septic system on the property; that neighbors on both sides support the Application; that there is an easement next to the property; that the reason they need the pole building the size and placement that they are requesting is because with a 50ft boat, trailer and then their truck they would not be able to easily maneuver the trailer to fit within the pole building due to the placement of the pool and ability to turn the truck around in that space; that they want to be able to back there trailer straight back into the pole building without having to make any turns; and that, in order to do that, they would need the building to sit closer to the side property line so that their driveway can be extended without having to move it.

Mr. Brady testified that the boat is 48 feet long with motors and the trailer; that the house consists of 4,000 square feet; that a neighbor has a larger pole building; that the boat is currently parked in Middletown; that he owned the boat prior to purchasing the property; that placing this pole building in the requested place would keep the property looking aesthetically pleasing as it would create a minimal amount of extra blacktop; that, if they turn the pole building, they would have to take up the whole back yard grass to be able to turn it versus just extending the driveway; that this way they would be able to still have grass for the kids and the dogs; that the Applicants went over the proposal with their HOA and looked at it different ways to try and explore options but nothing seemed feasible except for their proposal for these variances.

George Giles was sworn in to testify in opposition to the Application.

Mr. Giles testified that he is a member of the Board of Directors for the homeowners association; that the property to the rear of the lot is open space; that there is no septic in the Dove Knoll Subdivision; that sewer was installed in 1998 prior to the building of the first house in the neighborhood; that the wells were in the front or rear depending on where the septic systems were to be located; that they HOA would consider the placement of the pole building being five (5) feet from the rear property line as the field in the back is owned by the developer and there are no plans for anything to be placed on that lot; that, as long as the County approved the variances, they would bring this application back before their Board of Directors to reassess their decision on the placement; that they approved the rear yard placement but denied the side yard; that there are no other pole buildings within the development that are not within the building envelope and this would be the first to ask for a variance; and that the pole buildings within the neighborhood are newer structures built within the past 10 years.

Ms. Brady testified that the homeowners association denied the side yard variance but approved the rear yard variance request and would reconsider the side yard variance if the Board approved that request.

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

Mr. Williamson closed the public hearing.

Mr. Lovenguth moved to deny the application for Case No. 13104 for the requested variances, pending final written decision, for the following reasons:

1. The property does not have unique physical conditions which have created an exceptional practical difficulty;
2. The Applicants failed to demonstrate that the property cannot be developed in strict conformity with the Sussex County Zoning Code;
3. The exceptional practical difficulty has been created by the Applicants;
4. The variances will alter the essential character of the neighborhood; and
5. The variances do not represent the minimum variances necessary to afford relief or the least possible modifications of the regulations at issue.

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

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

Case No. 13105 – Joseph and Angela Raccomandato seek variances from the side yard setback

requirements for proposed structures (Section 115-25 and 115-183 of the Sussex County Zoning Code). The property is located on the southwest side of Heartleaf Road within the Sweetbay Subdivision. 911 Address: 24191 Heartleaf Road, Frankford. Zoning District: AR-1. Tax Map: 533-11.00-787.00

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

The Applicants are requesting the following variance:

- 2.59 ft. variance from the 10 ft. side yard setback on the northwest side for a proposed attached shed, outdoor shower and trash enclosure.

Joseph Raccomandato and Angela Raccomandato were sworn in to give testimony on this application.

Mr. Raccomandato testified that the Applicants are putting in a shower enclosure and shed along the side of their home and the homeowners association is requiring them to get a variance for the shed as it is considered a permanent structure; that the shed will measure 6 feet by 4 feet; that the Applicants wanted to install a standalone shed but the homeowners association would not allow that; that the homeowners association is requiring the placement where it is to keep the conformity within the development and there is a limited amount of space on that side of the home; that because the homeowners association is making them attach the shed to the home, the shed falls within the side yard setback; that the shed will have no electric and will only be used to store things like garden tools; that the neighbors are all ok with the placement of the shed as everyone is required to do the same as them per their homeowners association; that the enclosures will be 6 feet tall with the shed having a peak to match the characteristics of the home that will reach 72 inches; that the shed will match the bump-out on the neighboring home used for a fireplace; that the structures cannot be placed on the other side due to the location of utilities; and that there will be no access to the shed from the interior of the home.

Ms. Raccomandato testified that the property is unique due to its narrowness; that the shed will be used for garden equipment; and that the neighbors support the request.

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. 13105 for the requested variance, pending final written decision, for the following reasons:

1. The property has unique physical conditions due to the narrowness of the property and the restrictive covenants requiring sheds be attached;
2. There is no possibility 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 uses of neighboring properties;
7. The variance will not be detrimental to the public welfare;
8. The variance represents the minimum variance necessary to afford relief; and
9. The variance represents the least modification possible of the regulation at issue.

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

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

Case No. 13106 – Richard West seeks variances from the front and rear yard setback requirements for an existing and proposed structures (Section 115-42, 115-182 and 115-183 of the Sussex County Zoning Code). The property is located on the northeast side of Wilmington Street within the Banks Acres Subdivision. 911 Address: 31579 Wilmington Street, Ocean View. Zoning District: GR. Tax Map: 134-12.00-1184.00

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received twenty-five letters of support, zero letters of opposition, and one mail return.

The Applicant is requesting the following variances:

- 2.9 ft. variance from the 30 ft. front yard setback for a proposed structure;
- 5.7 ft. variance from the 10 ft. rear yard setback for an existing detached garage;
- 5.8 ft. variance from the 10 ft. rear yard setback for an existing detached garage;
- 0.3 ft. variance from the 5 ft. rear yard setback for an existing shed; and
- 0.4 ft variance from the 5 ft. rear yard setback for an existing shed.

Joseph Kaskel and Richard West were sworn in to give testimony about this application.

Mr. Kaskel testified that he is the builder for the Applicant; that, in July 2024, he met with the Applicant; that the Applicant's daughter and granddaughter live in the home; that they are building an addition onto the home and the only feasible place for it to go would be in the front of the home; that he phoned the Planning & Zoning Office and was verbally given the setback of 30 feet from the street and not the property line so they failed their footer inspection due to the encroachment into the

setback which is how they ended up needing this variance; that they have since spoken to the neighbors and received the support from them to continue with the addition in the front yard; that this has a similar design to that of the neighboring homes so they are staying with the character of the development; that there is a gap of 15-17 feet from the edge of paving of Wilmington Avenue and the front property line; that he thought the setback went to the actual street and not the property line; that the addition is 42 feet from the street; that he plans to use a surveyor in the future; and that he did not construct the garage or shed.

Mr. West testified that he has owned the property for five (5) years now and the garage and shed were there when he purchased the home and they are too large of structures to move; that there is a well on the property to the left of the driveway in the front of the house; that there is an easement along the front of their property line and that is why the setback was done incorrectly; that, from the street/edge of paving back, fifteen (15) feet is an easement and then the property line starts; that he believes that the gap is approximately 17 feet; that, prior to this addition being constructed, they did not have a survey done and that is where the mistake was made; that the addition will add approximately 190 square feet to the dwelling for extra living space to accommodate his family; that the addition will measure 18 feet by 12 feet; that he works out of his home and plans to use the addition for a home office; and that the house consists of 1,600 square feet.

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. 13106 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique physical conditions due to its the easement and the confusion by the builder;
2. There is no possibility 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 uses of neighboring properties;
7. The variances will not be detrimental to the public welfare;
8. The variances represent the minimum variances necessary to afford relief; and
9. The variances represent the least modifications possible of the regulations at issue.

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

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

Case No. 13107 – Lou Ann Quigley seeks a special use exception and variance for an accessory dwelling unit with a floor area greater than 1,000 sq ft or 50% of the floor area of the single-family dwelling located on the same lot and from the front yard setback requirement for an existing structure. (Sections 115-20 A(15)(c), 115-23, 115-182 of the Sussex County Zoning Code). The property is located at the intersection of Honeysuckle Road and Daisey Road. 911 Address: 34514 Daisey Road, Frankford. Zoning District: AR-1. Tax Map: 533-6.00-123.00

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

The Applicant is requesting the following variance:

- 484 sq. ft. variance from 1,000 sq. ft. maximum allowable floor area for an accessory dwelling.

Franklyn Van Dam was sworn in to give testimony about the Application.

Mr. Van Dam testified that he works for the general contractor performing the work for the Applicant and is here to represent them; that the original permit was applied for on April 22, 2024, which was before the adoption of the new ADU Ordinance; that originally this was proposed as extra living space above the garage and they decided to add a stove to that plan which caused it to fail inspection because, once the cooking facilities are in place, it makes it an accessory dwelling unit and not just extra living space; that they have had separate utilities to the garage since 1994 and they did not have to do any of that when doing this addition; that they have reached out to the neighbors and have received three (3) approvals from them in regards to allowing this accessory dwelling unit to be constructed; that the building was originally constructed as a two car garage; that they added the living space so that the Applicant's son and daughter-in-law could stay there and still be close to her as she is getting older; that that they added to the garage space below and then added the living space the entire space above the full garage; that there is plenty of parking with a separate spot specifically for that space; that the unit is not intended for a rental; and that the entrance to the space is through an exterior entrance only.

Mr. Howard Wimbrow was sworn in to give testimony about the Application.

Mr. Wimbrow testified that he lives across the street from the Applicant and is in support of the accessory dwelling unit being built and utilized since it will be strictly for family and not used for random people renting it; that the lot consists of 2 acres; that he believes the issue was a snafu; and that he has no issues with the request.

Ms. Kate Zwilling was sworn in to give testimony about the Application.

Ms. Zwilling testified that she is Ms. Quigley's daughter-in-law and she and her husband are the ones living in the accessory dwelling unit and constructed the ADU in good faith with the intention of complying with all applicable regulations; that their contractor took the lead on managing the permitting process and understood that they were acting transparently by including the structures, measurements in the scope of work section for the permit application, which was dated in April 22nd of 2024; that that was approved and received the permit to build; that, during the final building inspection on September 11, 2024, it indicated that they were in compliance; that the expansion was done to accommodate her family of three (3) and to allow them to live affordably while staying close to Ms. Quigley as she needs more assistance; that the garage accommodates 3 cars and the ADU was built to provide symmetry; and that the ADU has a bedroom and a home office.

Mr. Sharp asked about the possibility of needing a variance from the front yard setback as a result of the dwelling being over the setback by one (1) foot and if the home has been that way all along.

Lou Ann Quigley was sworn in to give testimony about the Application.

Ms. Quigley testified that the home was bought in 1990; and they added an addition of the den into it in the early 1990s

Mr. Sharp asked Mrs. Norwood if the home itself was in need of a variance since the front corner crossed into the forty (40) foot setback by one (1) foot.

Mrs. Norwood stated that the addition to the main dwelling was built in the early 1990s; that there was a Certificate of Occupancy issued at that time; and that variance can be corrected administratively.

Mr. Sharp explained to the Board that there motion will only be for the variance for the ADU because the front yard variance can be handled administratively since staff has discovered the certificate of occupancy is for that structure.

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

Mr. Williamson closed the public hearing.

Mr. Lovenguth moved to approve the application for Case No. 13107 for the requested variance, pending final written decision, for the following reasons:

1. The variance will not alter the essential character of the neighborhood;

2. The variance will not substantially or permanently impair the uses of neighboring properties;
3. The variance will not be detrimental to the public welfare;
4. The variance represents the least possible modification of the regulation at issue; and
5. The variance represents the minimum variance necessary to afford relief.

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

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

Case No. 13108 – EVG – UDC Ventures, LLC / The Evergreene Companies seeks variances from the landscape buffer requirement in the Combined Highway Corridor Overlay Zone (CHCOZ) and from the fence height requirement for a proposed fence (Sections 115-82, 115-194.1, and 115-185 of the Sussex County Zoning Code). The property is located on the west side of Coastal Highway approximately 405 feet northwest of Ann Avenue. 911 Address: 20902 Coastal Highway, Rehoboth Beach. Zoning District: C-1. Tax Map: 334-20.09-189.00

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received zero letters of support, zero letters of opposition, and four mail returns.

The Applicant is requesting the following variances:

- 7.76 ft. variance from the 20 ft Combined Corridor Highway Overlay Zone buffer requirement; and
- 3.5 ft. variance from the 3.5 ft. maximum allowable height requirement for a fence.

Eric Wahl was sworn in to give testimony about the Application.

Mr. Wahl testified that he is a registered landscape architect and senior planner with Pennoni Associates and is representing the Applicant; that the property consists of 0.68 acres and is located in the Forgotten Mile; that the property is currently zoned C-1 (General Commercial) and has been used primarily as hotel accommodations with an entrance along Coastal Highway; that there was parking between the hotel and Coastal Highway and there was also a stormwater infrastructure contained therein with a sand filter strip; that the proposed permitted use is for seven (7) single-family detached homes located on the property within a condominium ownership; that the entrance to the property will remain off Coastal Highway through the DelDOT approval process; that the Applicant has received approvals from the Fire Marshal and Sussex Conservation District with the agreement to reuse the existing sand filter strip after cleaning it and adding new sand; that the property has a unique shape with approximately 300 feet long along Coastal Highway and about 99 feet deep; that the entrance for the property will be from Coastal Highway at an existing curb cut; that all work will be

done from the back of the existing sidewalk and the crosswalk so there is no work within the right-of-way; that each dwelling will have access from the front of the site by the use of Spin Drift. Lane, which is a 24 foot wide private access way; that DelDOT requirements for Access Section 3.6 of the Development Coordination Manual outlines the requirements for major residential development proposed in the proximity of any roadway with a functional classification of principal arterial is required to provide, for noise mitigation, something such as a seven (7) foot solid panel fence along the frontage of Coastal Highway; that the Applicant proposes landscape plantings focused on native species and chosen for site conditions and the limited space available for the plantings and they will provide a soft visual buffer between the roadway and the proposed development, as well as to contiguous land uses; that Crepe Myrtles will be placed between the fence and the sidewalk, which have shallow roots for limited space, and are shaped in a vase base shape so people can walk underneath easily; that this proposal preserves and enhances the aesthetic and visual character of land uses contiguous to Coastal Highway, resulting in orderly development in this region; that the proposed improvements to the site increases the grass areas or open space from an existing only 14% to 30%; that the uniqueness of the property is that the property's shallow depth of approximately 100 feet gives this property a unique circumstance with the existing parking lot that was there, up to the right-of-way; that the Combined Highway Corridor Overlay Zone requires a 20 foot buffer within the required front setback, and the reduction of 7.76 feet will allow the existing 2.8 feet that is there now to increase by 9.43 feet, resulting in a total 12.24 wide buffer and by adding the fence will enhance the buffer with more privacy as well as not further restrict the land from being able to make possible the reasonable use; that property cannot otherwise be developed; that the variances are necessary for the reasonable use of the property while conforming to the zoning ordinance and the regulations of the State of Delaware; that the use of the existing access off Coastal Highway forces safe access to and from the internal drive aisle along the front of the property that further restricts the size of each dwelling unit; that the fence will provide privacy and enhance the buffer area and provide the sound barrier as required by DelDOT; that the exceptional practical difficulty was not created by the Applicant; that the limited depth of the property and the narrow building area along with the 24 foot wide drive aisle for traffic from the existing entrance were not created by the Applicant; that Sussex Conservation District requires that the existing sand filters remain as installed, which adds to the exceptional practical difficulty for the redevelopment of the property; that the privacy fence will help with noise reduction from Coastal Highway as required by DelDOT; that these variances will not alter the essential character of the neighborhood; that the variances would not alter the essential character of the neighborhood as the Applicant proposes a substantial increase to the landscaping and the location of the Combined Corridor Overlay Zone buffer, along with the privacy fence that will emulate traditional neighborhood design and enhanced local surroundings; that the landscaping will provide a soft visual buffer between the road, the proposed dwellings, and contiguous land uses; that it would not impair any development of adjacent property and the landscaping also straddles the fence so there will be some on the inside of the fence, as well as the outside of the fence, so that both sides are getting the benefit of the landscaping; that the variances, if authorized, will represent the minimum variances that will afford relief and will represent the least modifications possible of the regulations; that the request in the buffer reduction and proposed privacy fence within the Overlay Zone is the minimum needed for proper development of their property; that, if granted, that variances requested

provide adequate space for dwelling units, safe pedestrian movements, and safe vehicular movements; that the variances do not otherwise impair the public health, safety, comfort, morals, or general welfare within the neighborhood; that DelDOT requires a noise mitigation effort, which is a seven (7) foot panel privacy fence, and then the additional landscaping as well; that the fence will not have any impact on the ability of a driver to get to and from the property; and that all sight triangles will be respected for turning movements.

Julia Geha was sworn in to give testimony in opposition to the Application.

Ms. Geha testified that she lives right behind the proposed development and questioned the need to put in a two lane road inside of the fence and push the fence out so far when the previous hotel was able to have parking in the front and not need to have the fence; that there is concern that there will be minimal vegetation actually followed up with along the proposed fence and more of the landscaping on the interior side of the fence for the residents of the development to enjoy.

Mr. Wahl testified that, where the hotel was located, there was only 2.8 feet wide of a grass strip with the Crepe Myrtles and then the parking began; that, with this new plan, the pavement is pushed back and the lot will gain almost 13 feet of green area; that the fence is basically in the middle of that green area so there will be about between 6 -7 feet on either side of the fence; that most of the bigger vegetation is on the outside of the fence on the Route One side; that there is this unity of the flowering trees with some Evergreen trees there for some buffering and some pretty grasses and flowers mixed in between on the opposite side of the fence against the house side; that we have the native holly shrubs, inkberry and hydrangeas and other flowering things on the corners so that they get some year round growth as well; that the Applicant is promoting both sides of the fence to help to soften that mitigation for noise by adding landscaping where we could and none of these things will get over overgrown to the size where it impacts the fence or anything like that or impacts the sidewalk; that with the hotel the parking stalls went right up almost to the sidewalk, there is only 2.8 feet between the parking stalls and the existing sidewalk, and some Crepe Myrtles; that the Applicant is going to increase this width of green space and then there will be a 24 foot drive aisle to access the garages at the front; that the homes would sit back against the setback line at the rear of the property; and that all of the homes are all facing Route One and then there is the drive aisle between them and the fence.

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

Mr. Williamson closed the public hearing.

Dr. Hitchens moved to approve the application for Case No. 13108 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique physical conditions as it is shallow;

2. There is no possibility 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 uses of neighboring properties;
7. The variances will not be detrimental to the public welfare;
8. The variances represent the minimum variances necessary to afford relief; and
9. The variances represent the least modifications possible of the regulations at issue.

Motion by Dr. Hitchens, 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, Dr. Hitchens – yea, and Mr. Williamson – yea

Case No. 13109 – Jennifar and Doug Hamilton seeks variances from the side and rear yard setback requirements for a proposed structure (Section 115-25 and 115-183 of the Sussex County Zoning Code). The property is located on the northwest side of Larch Lane within the Piney Glade Subdivision. 911 Address: 36375 Larch Lane, Rehoboth Beach. Zoning District: GR. Tax Map: 334-13.00-750.00

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received zero letters of support, zero letters of opposition, and two mail returns.

The Applicants are requesting the following variances:

- 3 ft. variance from the 5 ft. side yard setback on the north side for a proposed detached garage; and
- 3 ft. variance from the 5 ft. rear yard setback for a proposed detached garage.

Daniel Coblenz, Jennifar Hamilton, and Douglas Hamilton were sworn in to give testimony about the Application.

Mr. Coblenz testified that he is the builder and representing the Applicants and that they want to put in a two-car garage at the end of their driveway; that, due to the placement of the driveway, if they line the garage up with it, the garage will be off-center; that, with the placement of the single-wide trailer on the property, in order to make the garage work, it would need to be placed behind the trailer and that will cause the garage to fall within the property setbacks; that, if they move the garage forward and out of the setback line, there would not be enough room between the garage and the trailer to access the back yard comfortably and to be able to fit any kind of lawn equipment in the rear

yard; that the neighboring to the rear yard has a building on the lot line; that the neighbor to the side has no objection to the request; that there are similar structures in the neighborhood.

Mr. Sharp stated that the Applicants are already getting a reduced setback, as you would normally have a larger setback than what is offered here, which is five (5) feet; that the reason it is five (5) feet is because the proposed structure is less than 600 square feet; that, if it was larger than that you would have to meet a larger setback, both on the side and in the rear; and that what the Applicants are seeking is a more than 50% variance from the already reduced setbacks.

Mr. Hamilton testified that they plan to remove the manufactured home and build a house in the future; that the well is located in the front yard; that there is no septic system on the property; that his sister owns the adjacent property which has a two-car garage; that he is not sure when the house will be constructed; and that he will use the garage to store his belongings.

Ms. Hamilton testified that tree trimmers cannot access the rear yard; and that they can maintain the garage on the property.

Mr. Coblenz testified that the garage will measure 24 feet by 24 feet and will be 576 sq. ft. in size; that the garage will be guttered; and that the garage will have 2 single doors.

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

The Board discussed that the Applicants have several options to limit the variances being requested as they have a simple lot and there is some room to move the garage and still have what they want.

Mr. Williamson closed the public hearing.

Mr. Lovenguth moved to deny the application for Case No. 13109 for the requested variances, pending final written decision, for the following reasons:

1. The property does not have unique physical conditions;
2. The exceptional practical difficulty has been created by the Applicants;
3. The variances will alter the essential character of the neighborhood; and
4. The variances do not represent the minimum variances necessary to afford relief.

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

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

ADDITIONAL BUSINESS

Case No. 12834 – TREW R2, LLC and Newton Farms, LLC **Time Extension Request**

David Hutt, Esquire, presented the time extension request on behalf of the Applicant.

Mr. Hutt stated that Mountaire Farms has acquired the property; that the DelDOT yard is adjacent to the property; that a one year time extension is requested; that there is a feed mill across the street from the site; that several agencies have been involved in this process; and that he expects it will take 6-9 months to obtain all final agency approvals.

Mr. Lovenguth moved to approve the application for Case No. 12834 for the time extension for a period of one year.

Motion by Mr. Lovenguth, seconded by Dr. Hitchens, carried that the **time extension request be approved for a period of one year.** Motion carried 4 - 0.

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

Meeting adjourned at 8:44 p.m.