

MINUTES OF AUGUST 3, 2026

The regular meeting of the Sussex County Board of Adjustment was held on Monday, August 3, 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 not present. 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 Dr. Hitchens, seconded by Mr. McClure and carried unanimously to approve the agenda. Motion carried 4 – 0.

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

Motion by Mr. McClure, seconded by Dr. Hitchens and carried unanimously to approve the Minutes for the June 1, 2026, meeting. Motion carried 4 – 0.

The vote by roll call: Mr. Kingree – yea, Dr. Hitchens – 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 1, 2026, meeting. Motion carried 4 – 0.

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

OLD BUSINESS

Case No. 13206 – Gary Lee seeks variances from the side yard 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 to the east side of Duane Drive. 911 Address: 31811 Duane Drive, Frankford. Zoning District: AR-1. Tax Map: 134-10.00-272.00.

Ms. Norwood stated that the Board left the record open at its meeting on June 15, 2026.

Gary Lee was sworn in to testify about the Application.

Mr. Lee testified that Sealed Engineering prepared the survey; that he is expanding the size of the septic drainfield; that he is using a PEAT system as it is the most compact system available; that, if he turned the structure 90 degrees, there would be no entrance except on the smaller side; that he

reviewed the opposition letter and submitted exhibits; that an entire new septic system is being installed; that he was told he could build the pole building without issue; that the building materials have been in his driveway for approximately 1 year; that the structure cannot be located far off the rear property line; that he can meet the rear yard setback requirement if the rear yard setback requirement is 20 feet; that, if the side yard setback requirement is met and the building was turned, he would not be able to use the pole building as intended; that the neighbor in opposition complains a lot; that the pole building will measure 40 feet by 60 feet and consist of 2,400 square feet; that there is no bathroom proposed in the pole building; that the house measures 2,700 square feet; that the neighbors will generally be pleased if he builds the pole building because it will look like part of the nearby farm; that he does not plan to put more than 4 cars in the pole building; that the property is used as his second home but he plans to retire there; and that his plan may change in 4-5 years.

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

Dr. Hitchens moved to deny the application for Case No. 13206 for the requested variances, pending final written decision, for the following reasons:

1. The property does not have unique physical conditions which have created exceptional practical difficulty for the Applicant;
2. The Applicant has failed to demonstrate that the property cannot be developed in strict conformity to the Sussex County Zoning Code and that the variances are necessary to enable the reasonable use of the property;
3. The exceptional practical difficulty has been created by the Applicant;
4. The variances will be detrimental to public welfare;
5. The variances will alter the essential characteristics of the neighborhood;
6. The variances will substantially or permanently impair the appropriate use or development of adjacent property;
7. The variances do not represent the least modifications of the regulation at issue; and
8. The variances do not represent the minimum variances necessary to afford relief.

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

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

PUBLIC HEARINGS

Case No. 13218 – Patrick Devenny seeks a variance from the rear yard setback requirement for a proposed structure (Section 115-25 and 115-183 of the Sussex County Zoning Code). The property

is located to the southwest side of Vintage Circle and to the north side of Port Avenue. 911 Address: 26074 Vintage Circle, Milton. Zoning District: AR-1. Tax Map: 135-10.00-547.00.

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 variance:

- 2.7 feet variance from the 10-foot rear yard setback requirement for a proposed sunroom.

Patrick Devenny and James Green were sworn in to give testimony for this application.

Mr. Devenny testified that he and his wife purchased the home a year ago and want to add a sunroom to the rear of the dwelling to be able to enjoy the outdoors without being bothered by the bugs; that his sister owns the home directly behind him and, when they decided to add the sunroom on, Mr. Green was the person they reached out because his company has constructed other homes in the Vines development; that the reason they need the variance is because of the awkward shape of their lot and how it tapers towards the rear property line; that the enclosure would measure approximately 10' x 15.5'; that the uniqueness of the property is the tapering of the land, whereas, most other neighbors have maybe twice as much distance between the back of the houses to the rear property line; that this would be the most desirable location of this enclosure considering his sisters live right behind him; that it would be another easy access for them; that the land tapers in rear causing there to be a need for the variance to put in the sunroom he proposes; that Mr. Green has put a number of these enclosures on homes throughout the development but this is the first one that has needed a variance due to the tapering of the lot; that most of the homes have their enclosures in the middle of the home but their doors are on the end of the home which makes it necessary to place the enclosure closer to the corner and, due to the tapering of the lot, the Applicant needs a variance while others do not.

Mr. Green testified that he has constructed similar sunrooms in the neighborhood; that there are unenclosed porches in the neighborhood; that the neighbors enclosed their deck but those neighbors did not need variances because they had more space in their rear yards; and that sunrooms are popular in the neighborhood.

Mr. Sharp confirmed that Vintage Circle is considered the front of the property, Port Avenue is the corner front of the property, and that the property already has the benefit of a reduced setback due to this home being part of a cluster subdivision; that a normal AR-1 setback would be a 20-foot rear yard setback and this development gives them a 10-foot setback.

Ms. Norwood stated that all lots in the neighborhood have 10 foot rear yard setbacks due to the cluster ordinance.

Mr. Green testified that the sunroom has a similar design to others in the neighborhood.

Mr. Kingree asked if the homeowners association has given approval for this project and whether any of the neighbors had any objections.

Mr. Devenny testified that the homeowners association has approved this project and his neighbors are his sisters and they are on board with this as they will benefit from the rear access too.

Mr. Sharp asked how the tapering of the lot affects the rear setback requirement; that the tapering may affect the side setback but, when looking at the tax maps, it appears that other homes have the same amount of length for their lots as this lot.

Mr. Devenny testified that those lots that have the same size property depth have smaller homes than his home and that creates less room to work with.

Mr. Sharp stated that the uniqueness of the property does not have to do with the size of the home that they chose to put on the lot; that the tax map shows identically sized lots in the neighborhood; that the Applicant must work within the space given; that, if the Board approves this application, then it may give other homeowners the right to apply for similar variances, creating a domino effect; and he asked whether any consideration been thought about putting in a patio or deck instead.

Mr. Devenny testified that his wife has set it in her mind that they want an enclosed porch due to the bugs that are out there.

Mr. Green testified that there is a bug problem in the neighborhood with lots of complaints.

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 reopen the record for additional testimony.

Motion by Mr. Kingree, seconded by Mr. Williamson, to reopen the room for Case No. 13218. Motion carried 4-0.

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

Mr. Kingree asked if the Applicant considered changing the size of the room being proposed to bring it into compliance with the setback requirements.

Mr. Green testified that he could build to fit the sunroom to fit within the building envelope.

Mr. Williamson asked what the intended use of the enclosure was going to be, for instance are they planning on having outdoor dining where there will be tables and chairs.

Mr. Devenny testified that they are planning on having tables, chairs, electricity, and fans to make it an enjoyable outdoor area that is bug ridden.

Mr. Green testified that there are many homeowners in the Vines who are struggling with the bugs and the ability to utilize their outdoor space comfortably; that he has built many enclosures just like the one that the Applicant is requesting for the same reasons; that this is the first variance that he has had to apply for as this home is slightly different than others in the development; that this is the first home that he is building the enclosure on in the new section of the development; that he is not sure if the homes are being set differently than all the others; and that the steps will be to the side yard and within the building envelope.

Mr. Williamson closed the public hearing.

Mr. Kingree moved to deny the application for Case No. 13218 for the requested variance, pending final written decision, for the following reasons:

1. The property does have a slightly different shape based on the curve of the lot but it does not meet the standard of unique conditions that create exceptional practical difficulty;
2. The property can otherwise be developed;
3. That, due to such physical circumstances and conditions, there is possibility 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 does not represent the least modification of the regulation at issue; and
7. The variance does not represent the minimum variance necessary to afford relief.

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

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

Case No. 13219 – Richard Heck seeks variances from the side yard setback requirement for an existing structure (Section 115-42 and 115-183 of the Sussex County Zoning Code). The property is located to the northwest side of W. Baltimore Court. 911 Address: 32457 W. Baltimore Court, Millsboro. Zoning District: GR. Tax Map: 234-29.00-596.00.

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:

- 6.9 feet variance from the 10-foot side yard setback requirement on the northeast side for an existing attached carport; and
- 7.0 feet variance from the 10-foot side yard setback requirement on the northeast side for an existing attached carport.

Richard Heck was sworn in to give testimony for this application.

Mr. Heck testified that he needs a variance for a carport that is already erected and being used; that the reason he had to put up another carport is because the garage doors do not line up with the original carport; that he has a heavy duty pickup truck that tows a fifth wheel camper and that will not fit in there; that he has a Toyota RAV4 that he can get in but it takes a long time backing it out; that, based on the photos presented, the garage doors and the placement of the carport do not line up; that he always keeps his truck under the carport; that he looked at the metal carports but they would not have looked right next to his other carport; that he started measuring and put the truck next to it and put rods in the ground, ran string lines, and decided he could do it; that he had his friend who is a good carpenter come over and they remeasured and he said they can make it work; that it would be tight because of the height of the truck but it worked; that he spoke to five of the neighbors on that street and they all agreed it does not take away from the character of the neighborhood; that they all agree that his lawn is well manicured with shrubs and flowers; that the properties on either side of him are not well maintained and that is why he put up the fence; that a permit was never applied for when the construction of the carport was done; that the neighbor turned him in for building the carport without a permit; that the neighbor has had an issue with him since he put the fence in years ago and complained to the homeowners association at that time; that the homeowners association told them they were in full compliance and there was nothing they could do; that the homeowners association has since came out and saw the carport but did not complain about it; that the carport has been constructed with 6'x6' lumber with a 12" footprint and 4" of concrete filled holes; and that he should have obtained a building permit.

Mr. Sharp asked the Applicant how long he owned the property and if the pole building was there when the Applicant purchased the home.

Mr. Heck testified that they purchased the home five years ago and put the pole building up through Diamond State Pole Buildings after moving in.

Mr. Sharp asked if the original carport was there when the Applicant purchased the property or if the Applicant built that too.

Mr. Heck testified that the original carport was there when they purchased the property.

Mr. Sharp asked whether proper permits were sought when the pole building was erected and when through the proper channels of construction and why the same was not done for this second carport.

Mr. Heck testified that, when he asked his carpenter to help him build the carport, he told him that they were able to do this, and he assumed that there was no permit needed.

Mr. Sharp asked if there is a unique physical condition related to the property that causes the need for this carport to be located so close to the property line.

Mr. Heck testified that although he has the pole building which would be ideal to store his vehicles in the placement of that building does not align with the carport and, in order for him to get in and out of the pole building, he has to maneuver the cars through the carport and then realign with garage doors; that, when they built the pole building, he asked about tearing down the original carport so that there would be no alignment issues but they informed him that carport is built into the home and tearing that down would be a huge expense to repair the roofline and all that is associated with it; that the pole building was built where it was because of the setbacks of the property and what was necessary to make that fit into compliance; that he parks his camper on the other side; that the lot is nearly square and is the same size and shape as other lots in the neighborhood; that the property is served by a well and sewer; and that the home is a manufactured home.

Ms. Norwood advised the Board that the pole building received an administrative variance in 2020.

Mr. Heck testified that he did not consider shrinking the width of the carports; and that he bought the carport because he thought he could keep his camper there.

Darlene Becker was sworn in to give testimony in opposition to the Application.

Ms. Becker testified that she is the homeowner that shares the property line that the setback encroaches and she opposes this structure; that the Applicant built a permanent structure 3 feet from the property line; that the Applicant built a carport permanently attached to an existing carport and the constable's office said that he did not get a permit and did not submit a building plan as required by the County Code; that a constable came out and noticed that the structure violated the side setback of five feet and notified her of that; that, if the Applicant would have followed the County Code, he would not have been allowed to build this structure; that the Applicant created his own problems; and that she did not feel that she should have to deal with the consequences of his actions.

Robert Armour was sworn in to give testimony in opposition to the Application.

Mr. Armour testified that he is the President of the Captain's Grant Homeowners Association and has been since 2004; that, prior to that, he was on the Captain's Grant Homeowners Association Board of Directors as a delegate at-large; that the delegate at-large's position is to review any of the forms that come in requesting tree removal or architectural review and see if there is a problem or any kind of an issue; that the Application that was submitted to the Board asks the uniqueness of the property and it also says if there is exceptional practical difficulty due to such conditions and not to circumstances or conditions generally created by the provisions of the zoning code or code of the neighborhood; that the code of the neighborhood is found in the covenants and restrictions of Captain's Grant filed in Book 03309, page 245; that the setback codes state that a setback of at least 5 feet from the rear of each lot and 5 feet from the side of each lot for accessory buildings; that a carport would be called an accessory building and there is only supposed to be two accessory buildings per lot, one, a garage, and two, a shed; that there is the garage and a shed there; that the accessory building still has to meet the required setback, and it does not; and that, when you buy the property, you agree to live by those setback requirements.

Mr. Sharp stated that the Board, while it is helpful to know the setbacks and the homeowner association restrictions, does not enforce restrictive covenants and homeowner association setback requirements; that the Board only enforces what the county setbacks are now; and that it appears that the Board is only looking at the county's side yard setback requirement, which is 10 feet.

Mr. Armour testified that, should the Board of Adjustment grant the variance, the homeowners association board cannot also grant the variance; that, if the Board of Adjustment says it is all right, it is not allowed with the homeowners association board as it still requires a 5-foot setback.

Mr. Kingree asked that, if the Board of Adjustment was to grant relief, is Mr. Armour suggesting that the homeowners association would take other action to enforce the homeowners association's rules, even if there was a variance granted by the County.

Mr. Armour testified that that is a possibility; that, at this point, the homeowners association board has not made any decision about that so he cannot tell what action will or will not be taken but he can tell you that the homeowners association board was not aware of the issue until it received notice that there was the violation because the homeowners association had not received an architectural form asking it to come out and look and to approve what was being done.

Mr. Williamson asked if the Applicant went through the whole process with their board to build the pole building because he speaks of knowing the setbacks and the building meeting those.

Mr. Armour testified that he cannot say for certain if the Applicant went through their review board but they would have to go through the records to see if they were ever completed.

Perry Sgrignoli was sworn in to give testimony in opposition to the Application.

Mr. Sgrignoli testified that he owns the property to the rear of the Applicant and he opposes the request; that, if the Applicant is granted a variance, it allows everybody else to follow suit and just do what they want to do and face the consequences after the fact; that this would allow everyone else to proceed with projects without talking with the homeowners association board and the County; that the Applicant's property is a mess; that the Applicant blows leaves under his fence onto his lot; that the Applicant's fence encroaches onto his property; and that the setbacks help with access around the property for fire safety.

Mr. Heck testified that the fence was erected in 1980 and, when it was replaced, he used the same holes as the prior fence; that the fence was moved due to tree stumps; that he wanted to make it easier for he and his wife; and that he admits his mistake.

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

Mr. Williamson closed the public hearing.

Mr. McClure moved to deny the application for Case No. 13219 for the requested variances, pending final written decision, for the following reasons:

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

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

Meeting adjourned at 7:47 p.m.