

MINUTES OF AUGUST 4, 2025

The regular meeting of the Sussex County Board of Adjustment was held on Monday, August 4, 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 Mr. Kingree and carried unanimously to approve the agenda as revised with the removal of Case No. 13101 from 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. 13094 – Tomato Sunshine – Donna DeAngelis seeks a special use exception to place a tent for special events (Sections 115-80 & 115-210 of the Sussex County Zoning Code). The property is located on the northeast side of Central Avenue approximately 40 ft. southwest of Canal Crossing Road. 911 Address: 19827 Central Avenue, Rehoboth Beach. Zoning District: C-1. Tax Parcel: 334-13.20-22.00

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

The Applicant is requesting a special use exception for a tent for special events for a period of five years.

Ms. Donna DeAngelis was sworn in to give testimony about the Application.

Ms. Donna DeAngelis testified that the Applicant requests a five year renewal of the previously granted special use exception for a retail produce stand that runs from mid-April through Labor Day weekend; that the tent has operated for 7 years; that there have been no complaints about her current operation; that the Applicant operates the produce stand from 9:00AM-6:00PM daily from mid-April until the Tuesday after Labor Day; that, after that time, the Applicant closes down the retail tent, packs it up, and cleans up the lot for the off-season; that the tent will be located in the same location as it previously has been located; that the tent is located to the rear of the lot; that there are no lights on the property as the Applicant operates solely during daytime hours; that there are no loudspeakers involved with the produce stand; that the lot is completely fenced in with a 30'x40' tent

to encompass the goods; that the Applicant operates a garden center and sells produce to the public; that there is a lot of foot traffic as they are located right off the bike trail and most people come in from there; that there are six (6) parking spots on the lot for vehicle traffic; that the Applicant cleans up the property from mid-April until May 1 when the Applicant puts up the tent and begins sales; that the area is commercial and residential; that the Revelation Brewing Company is located nearby as are warehouses for hotels; that the tent is held down by spikes and double straps to secure it properly; that the Applicant has not had problems with the tent falling down or being blown over by wind; that the property is maintained by the Applicant during the season and the landlord of the property maintains it in the off-season where the landlord parks beach equipment.

Ms. DeAngelis submitted pictures into the record.

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. 13094 for the requested special use exception, pending final written decision, for the following reasons:

1. The proposed use will not substantially affect adversely the uses of neighboring and adjacent properties;
2. The tent must be removed from the property at the end of the season; and
3. The approval will be valid for a period of five (5) years from May 1st through November 1st.

Motion by Mr. Lovenguth, seconded by Dr. Hitchens, carried that the **special use exception 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. 13098 – Linda Creed seeks variances from the separation distance, side yard setback and lot coverage requirements for proposed structures (Section 115-82, 115-172, and 115-183 of the Sussex County Zoning Code). The property is located southeast of Sea Air Avenue within the Sea Air Village Manufactured Home Park. 911 Address: 19777 Sea Air Avenue, Lot B07, Rehoboth Beach. Zoning District: C-1. Tax Parcel: 334-13.00-310.00-4575

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received zero letters of support, zero letters of opposition, and thirty-four (34) mail returns.

The Applicant is requesting the following variances:

- 189.34 square foot variance over the allowable maximum lot coverage of 35% for existing and proposed structures;
- 2.5 ft. variance from the 5 ft. side yard setback requirement on the southwest side for a proposed deck;
- 3.8 ft. variance from the 20 ft. separation distance requirement from the manufactured home on Lot 5 for a proposed deck;
- 4.5 ft. variance from the 10 ft. separation distance requirement from the existing shed on Lot 5 for a proposed shed.

Ms. Linda Creed was sworn in to give testimony about the Application.

Ms. Creed testified that variances were previously granted; that the manufactured home is small; that the Applicant seeks the variances to make additions to the dwelling for storage; that the property is unique; that all of the property is an angle that does not allow the Applicant to place any type of storage in the back of the building since the structures will be encroaching on neighboring properties that have been here since before setbacks were put in place; that the Applicant is looking to add a storage area where it would most benefit the property and the surrounding property; that the property cannot otherwise be developed; that, due to an inability to add any type of structure to the back of the property, the Applicant is looking to add to the side of the existing structure to connect to the existing porch; that the Applicant is also looking to add a lean-to to the shed to put a motorcycle in which is used for transportation and extend the driveway to make it safe to drive the motorcycle up; that the exceptional practical difficulty was not created by the Applicant; that the Applicant is just trying to create a logical solution to an area that has very limited storage and livability for the Applicant and her family as full-time residents; that the variances will not alter the essential character of the neighborhood; that the Applicant is not planning on doing anything to upset or disturb the character of the community and is only planning to upgrade the home as well as maintaining the integrity of the neighborhood; that the variances sought are the minimum variances which will allow the Applicant to make the most aesthetical improvements to our home and give the Applicant the most practical way to increase our storage area while still maintaining the integrity of the existing structure and the structures around; that she has met the neighbors and the neighbors support the request; that the landlord has approved the plan as well; that there are weeds behind the porch now; that she plans to improve that area; that the home is barely large enough for 2 people; that she is willing remove the lean-to; that the neighboring HVAC is over the property line; that the manufactured home has 1200 square feet; that the addition will consist of 280 square feet; and that the deck will be 190 square feet.

Mr. Williamson asked if there was any thought of making the deck smaller or moving it over so as to request a lesser variance and what is the size of the newly proposed deck?

Ms. Creed testified that aesthetically it would look best if it was if it just squared off the front of the building; and that the deck will be 12'x16' coming off the new French doors that will be installed off the kitchen.

Mr. Lovenguth asked if the proposed storage addition would have steps coming outside of the house and if so, where would they be placed?

Ms. Creed testified that there will be no stairs coming out of the storage addition, that there would strictly be access to that addition through the interior of the home; that there would be the main entrance that is currently off the screened-in porch and then an entrance through the new French doors and proposed deck; and that there are likely a few steps off the front of the deck.

Ms. Norwood stated that the steps would not need variances since they are open and unenclosed.

Ms. Creed testified that there will be no steps from the paver to the porch.

Mr. Sharp asked if there is a reason why those structures are needed for you to be able to reasonably use the property?; that the lean-to that is proposed, if it is attached to the dwelling, then the separation distance will change from 10' to 20' because that means it will no longer be considered an accessory structure but a part of the main dwelling; and that has there been any consideration into doing away with the lean to and taking some space from the addition to make into storage for the motorcycle?

Ms. Creed testified that the storage addition is the necessary size because of the amount of limitations that the dwelling gives them due to being so small; that the manufactured home is a 1969 model; that the driveway goes to the shed; that she acquired the home in December 2024; that the prior owner was illegally renting out the home; that they do not want to take away from that area to add storage for their motorcycle and that is why they are requesting to have the lean-to in addition to the shed and storage addition; that the lean-to will be attached to the shed; and that the neighborhood does not want sheds in the front yard.

Mr. Clifford Creed was sworn in to give testimony in support of the Application.

Mr. Creed testified that the neighbor's HVAC system is located over the shared property line on the south side thereby taking up more useable area that they are already limited with.

Ms. Creed testified that the house has 2 small bedrooms with small closets; and that they would have to get rid of the motorcycle if the variance for the lean-to was denied.

Ms. Norwood stated that a lot coverage variance is needed as are variances of 7.7 feet and 15.6 feet from the 20 feet separation distance requirement if the shed is attached to the dwelling.

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. 13098 in part and to deny the application in part for the requested variances, pending final written decision, for the following reasons:

1. The property has unique physical conditions due to the shape;
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 modification possible of the regulation at issue.

As part of his motion, Mr. Lovenguth moved to deny the variance for the lean-to.

Motion by Mr. Lovenguth, seconded by Mr. Kingree, carried that the **variances be approved in part and denied in part for the reasons stated**. Motion carried 3 - 1.

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

Mr. Williamson stated that the Applicant failed to demonstrate that the property was unique and that the exceptional practical difficulty was not created by the Applicant.

Case No. 13099 – Melony Messina seeks a variance from the maximum fence height within the front yard setback requirement for a proposed structure (Section 115-25 and 115-185 of the Sussex County Zoning Code). The property is located on the south side of Wolfe Neck Road. 911 Address: 35808 Wolfe Neck Road, Rehoboth Beach. Zoning District: AR-1. Tax Parcel: 334-7.00-16.00

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

The Applicant is requesting the following variance:

- 2.5 ft. variance from the 3.5 ft. maximum allowable height for a proposed fence.

Ms. Melony Messina was sworn in to give testimony about the Application.

Ms. Messina testified that the Applicant requests to put up a six (6) foot tall privacy fence along the front yard setback for security and noise abatement from the dog kennel that is located there; that the variance is needed because the fence will be within the 40 foot setback where the fence height is only to be 3.5 feet; that the variance needed is 2.5 feet; that the increased height will be needed to prevent the dogs from jumping that fence at her dog kennel; that she wanted extra security for the dogs so the area will be double-fenced; that the facility has outdoor runs and this fence would also provide extra security if the dogs were to get out of their runs; that privacy is also beneficial as there are a lot of people walking up and down the road because the trail is at the end of Wolfe Neck Road for Cape Henlopen State Park; that people walk and ride bikes all day long all the way down to the end of the Wolfe Neck Road; that the fencing will be made from PVC and will be a continuous six feet high all the way around if this approval goes through; that the property line is approximately ten feet from the edge of paving; and that the fence will be placed on the property line.

Mr. Mark Thompson was sworn in to give testimony in support of the Application.

Mr. Thompson testified that the dog kennel placement cannot be changed as there are existing buildings and structures on the property that cannot be moved and this is the only feasible location to place the dog kennel; that this fence will not only protect the dogs on the property but will also protect the pedestrians and bikers along the roadway; that there is a ditch between the road the property line of approximately 10 feet; that there is no well or septic on the property; that the area is rural but there is an abnormal amount of bikers and pedestrians for a rural area due to the trail; that there also heavy trucks along Wolfe Neck Road; that this fence is not out of character for the neighborhood; that he lives next door to the property; that neighbors are excited for the kennel; and that he believes the kennel will enhance the neighborhood.

The Board found that one person 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. 13099 for the requested variance, pending final written decision, for the following reasons:

1. The property is unique due to the kennel and the need for fencing;
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 Applicant;
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 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. 13100 – Michael Scott seeks variances from the front yard, side yard setback requirement for an existing structure. (Sections 115-25, 115-182, 115-183 and 115-185 of the Sussex County Zoning Code). The property is located on the west side of Holly Tree Road. 911 Address: 12622 Holly Tree Road, Ellendale. Zoning District: AR-1. Tax Map: 230-27.00-54.03

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:

- 12.88 ft. variance from the 15 ft. side yard setback on the north side for existing pole barn; and
- 11.73 ft. variance from the 15 ft. side yard setback on the north side for existing pole barn.

Mr. Michael Scott was sworn in to give testimony about the Application.

Mr. Scott testified that he placed a pole building on the outside of his driveway after having Delmarva Pole Buildings come out and stake out the design for the building based on their idea as to where the property lines were and then had them construct it; that, when the inspector came out, it was determined that the building was too close to the property line; that, since the building was already constructed, they called Pennoni to come in and do a survey to get exact placement of the property lines to determine how far off the building was from the principal setbacks; that Pennoni came out three separate times to correctly find the concrete pillars for his property markers and they cannot be found; that they did estimate based on the three inspections and came up with property markers and now it is necessary to file a variance for the pole building to be in proper placement; that, if he had known the issue prior to construction, he would have placed the structure on the other side; that the building is complete except for the installation of electric; that he relied on Delmarva Pole Builders but they refused to come to the hearing; that none of his neighbors have complained about the placement of the building; that he has attempted to contact the corporation that owns the field behind the pole building to find out if there was any issues from them but no one has responded to him; that he has owned the property since 1989; that there is a fence up separating his property and the field behind the pole building and they have planted trees all along there too; that he maintains the

area to the fence; that there is septic and well on the lot but it is on the other side of the dwelling and there is nothing near the pole building except for the new incoming electric that will supply it once complete; that the lot is primarily flat and retains the water very well; that the building was placed in that location so that it could be accessible via the driveway but also kept an open sightline from his home to the driveway; that he has experienced issues with trespassers and the ability to see down the driveway is important to him; that the building is to be used for storage only; and that the building measures 30 feet by 60 feet and is 14 feet tall.

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

Mr. Williamson closed the public hearing.

Dr. Hitchens moved to approve the application for Case No. 13100 for the requested variance, pending final written decision, for the following reasons:

1. The property is unique due to the hardship created 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 Dr. Hitchens, seconded by Mr. Lovenguth, carried that **the variances be approved for the reasons stated**. Motion carried 4 – 0.

As part of her motion, Dr. Hitchens directed Mr. Sharp to send a letter to Delmarva Pole Builders.

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

Case No. 13102 – James and Billie Jean Stickels seek 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 (Section 115-20A(15)(c) 115-23, and 115-25 of the Sussex County Zoning Code). The property is located on the east side of Old Landing Road. 911 Address: 19661 Old Landing Road, Rehoboth Beach. Zoning District: AR-1. Tax Map: 334-12.00-190.00

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:

- A special use exception for an accessory dwelling unit; and
- A 175 square foot variance from the 1,000 square foot maximum allowable square footage for an accessory dwelling unit

Mr. James Stickels was sworn in to give testimony about the Application.

Mr. Stickels testified that the property is a half-acre lot near Old Landing Road; that he purchased this lot to put a large garage on to store his collector cars and collectible items; that he built the garage with an apartment over the garage; that they constructed that garage and made the living space above it in order to meet the zoning code; that they lived in the apartment for the last three years and now want to build a primary dwelling in the front of the property and have the garage / studio apartment changed into an accessory dwelling unit according to the County's new ADU Ordinance; that, in order for that living space to remain above the garage with the primary dwelling on the property, he will need a variance because the square footage of that space is more than what the new Ordinance allows; that they filed for a building permit for the new house but it was canceled due to the apartment over the garage; that the apartment has a separate utility line; that the garage was built 3 years ago; that they moved to the property in November 2024; that this request is only necessary because of the changing of the Ordinance and the square footage requirement that is now needed to be considered an accessory dwelling unit; that there is separate sewer and water connections from the primary dwelling and enough parking to accommodate not only the primary dwelling, but the ADU also; that he is not sure the long-term plan for the ADU; that he may use the ADU for family members; that he lives in the ADU currently; that ½ of the ADU is the apartment and the other half is used for storage space; that a neighbor has a similar ADU which is rented out weekly; that there are other ADUs in the neighborhood; that there is a bed and breakfast in the neighborhood also; that the garage was built prior to the ADU ordinance; that there is no HOA for the property; and that the new dwelling will have a separate garage.

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

Mr. Williamson closed the public hearing.

Mr. Lovenguth moved to approve the application for Case No. 13102 for the requested variance and special use exception, pending final written decision, for the following reasons:

1. The property is unique due to design of the garage;

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;
9. The variance represents the least modification possible of the regulation at issue; and
10. The special use exception will not substantially affect adversely the uses of neighboring and adjacent properties.

Motion by Mr. Lovenguth, seconded by Dr. Hitchens, carried that **the variance and special use exception 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

ADDITIONAL BUSINESS

There was no additional business.

Meeting adjourned at 7:43 p.m.