

## MINUTES OF DECEMBER 15, 2025

The regular meeting of the Sussex County Board of Adjustment was held on Monday, December 15, 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, Mr. Nathan Kingree, and Mr. John Williamson. 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: Mr. Kingree – yea, Dr. Hitchens – yea, Mr. Lovenguth – yea and Mr. Williamson – yea

Motion by Dr. Hitchens, seconded by Mr. Kingree and carried unanimously to approve the Minutes for the October 20, 2025, meeting. Motion carried 4 – 0.

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

Motion by Mr. Kingree, seconded by Mr. Lovenguth and carried to approve the Findings of Facts for the October 20, 2025, meeting. 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. 13145 – Bruce and Maxine Stander** seek variances from the front yard setback requirement and side yard setback requirement for a proposed structure (Section 115-34, 115-182 and 115-183(E) of the Sussex County Zoning Code). The property is located on the east side of Keenwik Road. 911 Address: 38075 Keenwik Rd., Selbyville. Zoning District: MR. Tax Map: 533-20.09-146.00

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 2 ft. variance from the 10 ft. side yard setback on the south side for a proposed

- structure;
- A 13.3 ft. variance from the 30 ft. front yard setback for a proposed structure; and
- A 13.4 ft. variance from the 30 ft. front yard setback for a proposed structure.

Bruce Stander was sworn in to give testimony about the Application.

Mr. Stander testified that the Applicants are requesting the variances to expand their home to a second story; that neighboring homes are 2-3 stories tall; that there was a variance granted for the original home in 1997 allowing for the home to fall within the setbacks of the property; that the Applicants are not looking to change the footprint but to add a second story to the already granted variance; that the Applicants are looking to expand so that they can bring their family to live with them to have them help take care of his wife and himself as they are aging; that the Applicants have suffered health issues; that they bought the home three years ago and are looking to expand the entire footprint for a full second story; that, once they get the approval from the Board, the Applicants will have an architect draw up plans and then submit them to the homeowners association for its approval; that the Applicants did not want to spend the money on the plans if the Board did not give the approval; that the prior owner added the garage and bedroom; that the entire house will be elevated; that the Applicants cannot expand the home on the rear as they have a swimming pool back there and there is the risk of flooding which limits the use of expanding to the rear of the property; that the Applicants placed the pool but did not think about the need to expand the home at that time; that the rear of the property is in a flood zone which is why the addition needs to be in the front; that there is no well or septic on the property; that the Applicants have spoken with all of the neighbors and there has been no opposition to the proposal; that there has never been any complaints about the current placement of things within the property such as decks, sheds or stairs; that there is approximately a nine foot gap between the road and the beginning of his property which creates a larger separation from the front of the home and the roadway; that he can fit 4 cars in the driveway all on the property; that he does not believe that neighbors will notice the encroachment since the original house encroaches; that the pool measures 20 feet by 15 feet; and that the yard is fenced in.

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. 13145 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique physical conditions as it is in a flood zone and has a pool;
2. That, due to such physical circumstances and conditions, there is no possibility that the property can be developed in strict conformity with the Sussex County Zoning Code;
3. The variances are necessary to enable reasonable use of the property;
4. The exceptional practical difficulty has not been created by the Applicants;
5. The variances will not alter the essential character of the neighborhood;

6. The variances will not substantially or permanently impair the appropriate use or development of adjacent property;
7. The variances will not be detrimental to the public welfare;
8. The variances represent the least modifications of the regulations at issue; and
9. The variances represent the minimum variances necessary to afford relief.

As part of her motion, Dr. Hitchens, placed a condition that the Board's approval be subject to the Applicants obtaining approval from their homeowners association and providing a copy of the written approval to the Office of Planning & Zoning.

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

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

**Case No. 13146 – Jason Russo** seeks variances from the front yard setback requirement and from the maximum fence height within the front yard setback requirement for a proposed structure (Section 115-34, 115-182 and 115-185) of the Sussex County Zoning Code). The property is located at the corner of Liverpool Lane and Oxford Court. 911 Address: 37405 Liverpool Lane, Rehoboth Beach. Zoning District: MR. Tax Map: 334-13.00-1580.00

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

The Applicant is requesting the following variances:

- A 15 ft. variance from the 30 ft. front yard setback requirement for a proposed structure; and
- A 0.5 ft. variance from the 3.5 ft. maximum height requirement for a proposed fence in the front yard.

Jason Russo was sworn in to give testimony about the Application.

Mr. Russo testified that he is requesting a variance so that he can place a pool in the yard; that the lot is not normal as it is a corner lot and the only place to put a pool is technically considered the front yard; that, due to that reasoning, the setbacks are much more restrictive than if it was considered a corner front; that the property receives a 30 foot setback all along the road frontage which inhibits the placement of the pool and pool deck; that they are looking to put the pool along the side of the home since they have no rear yard; that the plan is to put in the pool with a full patio surrounding it and then a fence along the property line; that currently there are trees planted along the property line and the fence would be placed on the interior side of those trees; that the homeowners association is

ok with the plan to do this as the neighbor across the street is the president of the homeowners association and has been in constant contact with him over the plan; that the property is located at the main entrance of the community; that the fence will be 4 feet tall which is the maximum allowed in the community; that swimming helps with his health; that the fence will be a black aluminum or slatted wood privacy fence; that his neighbor has a pool; that the fence will protect against kids and deer who may trespass onto the property; and that he has deer in his yard at times.

Mr. Sharp noted that the original subdivision plan showed a 30 foot front yard setback all around the property rather than a 15 foot corner front yard setback.

Mr. Russo testified that there is a 15 foot gap between the edge of paving of the road and the property line; that the road curves; that the pool will measure 18 feet by 36 feet; that the deck will lead to pavers to the pool; that he can adjust the size of the pool; that he needs the pool to be large enough to swim laps; that he will have a lock on the gate; and that he maintains the grass and irrigates the area between the property line and the road.

The Board discussed the Application with the Applicant and asked if he would reduce the size of the pool so that the request for the variance would not be as large as it is.

Mr. Russo testified that he would be willing to reduce the size by two feet so that he could lessen the variance request.

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. 13146 for the requested variances, with modification, pending final written decision, for the following reasons:

1. The property has unique physical conditions as it is a corner lot with a large gap between the road and has larger front yard setbacks;
2. That, due to such physical circumstances and conditions, there is no possibility that the property can be developed in strict conformity with the Sussex County Zoning Code;
3. The variances are necessary to enable reasonable use of the property;
4. The exceptional practical difficulty has not been created by the Applicants;
5. The variances will not alter the essential character of the neighborhood;
6. The variances will not substantially or permanently impair the appropriate use or development of adjacent property;
7. The variances will not be detrimental to the public welfare;
8. The variances represent the least modifications of the regulations at issue; and
9. The variances represent the minimum variances necessary to afford relief.

As part of his motion, Mr. Lovenguth moved to approve the Application with a modification so that the variance be 13 feet rather than 15 feet from the front yard setback requirement.

Motion by Mr. Lovenguth, seconded by Mr. Kingree, carried that the **variances be approved with modifications 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. 13147 – Michele L. Jerrell** seeks variances from the side yard setback requirement for existing structures (Section 115-25, 115-183(E) and 115-185) of the Sussex County Zoning Code). The property is located on the northeast side of Hearn's Pond Road. 911 Address: 8415 Hearn's Pond Road, Seaford. Zoning District: AR-1. Tax Map: 331-3.00-104.00

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

The Applicant is requesting the following variances:

- A 5.8 ft. variance from the 10 ft. side yard setback on the northwest side for an existing pool;
- A 7.8 ft. variance from the 10 ft. side yard setback on the northwest side for an existing pool;
- A 4.6 ft. variance from the 5 ft. side yard setback on the northwest side for an existing shed;
- A 5 ft. variance from the 15 ft. side yard setback on the northwest side for an existing dwelling; and
- A 5.9 ft. variance from the 15 ft. side yard setback on the northwest side for an existing dwelling.

Michael F. McGroerty, Esq., presented the Application on behalf of the Applicant.

Mr. McGroerty stated that he was representing the Applicant and that these variances are not at the fault of the Applicant but, rather, the need for the variances was discovered during the sale of the property; that the flood zone line goes through the existing house; that the pool and dwelling are placed within the setbacks of the property and they are trying to correct the situation for the Applicant who is the new owner; that the pool was placed outside of the flood zone on the property but is within the setback area as the original owners had the property lines mismarked; that the Applicant wants to keep the pool and deck and, in order to do so, she needs the variances; that this was the only place to put the pool and no one has ever complained about the placement; that the garage was granted a variance in the past and then a special use exception was granted for it this past summer as the garage has a kitchen facility in it making it an accessory dwelling unit; that the property is unique; that the

property is served by a septic system; that the exceptional practical difficulty was not created by the Applicant; that a pool in the front yard would be outside the character of the neighborhood; that the structures will not devalue property values; that the prior owner inherited the property; that the pool is an above-ground pool; that the shed is on a concrete foundation; that the drain field for the septic system takes up a large part of the rear yard; that, when the tank is replaced, it will have to go in the front yard; and that there have been no complaints about the location of the structures.

Ms. Jerrell affirmed the statements made by Mr. McGroerty as true and correct.

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. 13147 for the requested variances, pending final written decision, for the following reasons:

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

Motion by Mr. 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. 13148 – Ricky and Deborah Rodriguez-Gummo** seek a variance from the side yard setback requirement for an existing structure (Section 115-25, 115-183 and 115-185) of the Sussex County Zoning Code). The property is located on the south side of Taft Avenue. 911 Address: 38837 Taft Ave, Selbyville. Zoning District: AR-1. Tax Map: 533-20.18-165.00

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 Applicants are requesting the following variance:

- A 0.2 ft. variance from the 5 ft. side yard setback requirement on the west side for an existing staircase.

Deborah Rodriguez-Gummo was sworn in to give testimony about the Application.

Mrs. Rodriguez-Gummo testified that the Applicants are applying for a variance for their spiral staircase that is 2 inches over the setback line; that this was the only place they could put a staircase due to the narrowness of the walkway; that the ground level of the staircase is actually 6.5' from the property line but it moves outwards as you climb the steps and that is the farthest point out which is the 0.2" over the setback; that these are the only stairs to access the second story from the outside; that the home was built in 2013 and they purchased it approximately five years ago; that the home was originally a 2-story dwelling but they added the pool and the garage and, after doing some upgrades to the home, they decided to install the staircase so they could easily access the second floor from the outside; that the spiral staircase was the smallest and most practical stairs that would work for the space they were utilizing; that the staircase provides access from the top floor to the pool; that the neighbors support the request; that the encroachment occurs 10 feet in the air; that the lower portion of the staircase complies with the Code; that the Applicants have not received any complaints from neighbors about the staircase; that the Applicants relied on their contractor only to learn of the issue later; that, if the house was built closer to the east side yard setback area, no variance would be needed; and that there is no other access from the outside to the second floor of the home.

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. 13148 for the requested variance, pending final written decision, for the following reasons:

1. The property has unique physical conditions;
2. The prior owner built the house;
3. The staircase is needed for safe access to the home;
4. That, due to such physical circumstances and conditions, there is no possibility that the property can be developed in strict conformity with the Sussex County Zoning Code;
5. The variance is necessary to enable reasonable use of the property;
6. The exceptional practical difficulty has not been created by the Applicants;
7. The Applicants relied on their contractor;
8. The variance will not alter the essential character of the neighborhood;

9. The variance will not substantially or permanently impair the appropriate use or development of adjacent property;
10. The variance will not be detrimental to the public welfare;
11. The variance represents the least modification of the regulation at issue; and
12. The variance represents the minimum variance necessary to afford relief.

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

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

**Case No. 13149 – Anitra Watson** seeks a 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. (Sections 115-20 A(15)(c) and 115-42 of the Sussex County Zoning Code). The property is located on the west side of Russell Street. 911 Address: 14388 Russell St., Milton. Zoning District: GR. Tax Map: 235-14.00-138.00

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:

- A 200 square foot variance from the maximum 1,000 square foot allowable square footage for an accessory dwelling unit.

Anitra Watson and Juan Saez were sworn in to give testimony about the Application.

Mr. Saez testified that the structure was originally planned to be a simple garage and, when they learned of the possibility of having an accessory dwelling added into it, it worked perfectly as they would have a place for their children to come to if necessary; that they added rooms to the top floor of the garage; that the property meets the standards for a variance for the following reasons; that the lot is so narrow which limits the space available; that the property cannot otherwise be developed; that the property is narrow and the existing wells are located in the middle of the property and that limits the size of the main dwelling; that the need for the variance was not created by the Applicant; that they need more space to accommodate their family and the economy which is limiting the family from buying their own place; that the variance will not alter the essential character of the neighborhood; that the building of the accessory dwelling unit will enhance the look of the neighborhood and bring new dwellings to the neighborhood; that the variance is the minimum variance necessary to afford relief; and that there are no complaints about the size as it is a small amount.

Ms. Watson testified that a larger septic system will be installed in the front yard; that they cannot build elsewhere due to the septic system; she has not spoken with neighbors yet; and that there has been a lot of renovation since 2022.

The Board discussed the Application and asked the Applicant if the ADU was going to be utilized as their primary dwelling until the main dwelling is built and where that dwelling will be located.

Mr. Saez testified that neighbors are excited; that there are manufactured homes in the neighborhood; that the proposed house is a two-story house with a garage; that they will be living in the ADU above the garage until the primary dwelling is built, which will be located in front of the garage; that the extra 200 feet of space that they are requesting will be helpful as they will be living there primarily until their main dwelling is completed.

Ms. Watson testified that the lot was previously improved by a manufactured home; that the garage was built in 2023; and that a portion of the garage was converted to living space in 2024.

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. 13149 for the requested variance, pending final written decision, for the following reasons:

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

Motion by Mr. 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. 13150 – Farmers Beach, LLC** seeks a variance from the front yard setback requirement for a proposed structure (Section 115-34 and 115-182) of the Sussex County Zoning Code). The property is located on the northeast side of N. Bay Shore Drive. 911 Address: 1614 N. Bay Shore Dr., Milton. Zoning District: MR. Tax Map: 230-24.00-68.00

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:

- A 9.8 ft. variance from the 30 ft. front yard setback requirement for a proposed deck.

Brandon Bonk was sworn in to give testimony about the Application.

Mr. Bonk testified that the Applicant is requesting a reduction of the 30-foot front setback for the 10-foot variance to allow for the construction of a second-story deck; that the deck would extend a little less than 10 feet off the existing house into the front setback area; that the uniqueness of the property is the lot is 75 feet deep by 100 foot wide; that there is a 30 foot front setback and a 5 foot setback at the rear, which consumes 35 feet of the 75 foot of depth of the lot; that the existing house takes up almost the entire depth of the lot so it cannot otherwise be developed; that the north side of the existing house is the septic system and drain field; that the house is built to the back already of the setback and on the south side; that there is not enough room for the proposed deck; that the property was purchased in June 2025 and the house was built in 1974; that the difficulty was not created by the Applicant; that the variance will not alter the essential character of the neighborhood; that the deck is in poor shape on the south side; that the deck will be moved to the west side; that there is no gap between the property line and the edge of paving of the road; that the request to extend 10 feet into the current driveway with a deck does not disturb adjacent properties as there are no neighbors to the west, just marsh, the south and east are currently open, unoccupied lots and the property to the north would not be disturbed as there is only a driveway and a garage on that property; that the request will represent the minimum variance that will be afforded for relief with the least modifications possible; that this is a second-story deck and it allows for vehicles to utilize the driveway and have a parking area underneath; that the deck will be uncovered; and that the deck will be accessed from inside the house.

Jeffrey Chorman was sworn in to give testimony in support of the Application.

Mr. Chorman testified that he is a part-time resident of Broadkill Beach and is in full support of the Application as it will benefit the Applicant's growing family as full-time residents; that this build will conform with the neighborhood and will be a great addition to the area; that the variance is the minimum variance to afford relieve; that there are other similar decks in the neighborhood; and

that the road is lightly traveled.

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

Mr. Williamson closed the public hearing.

Mr. Kingree moved to approve the application for Case No. 13150 for the requested variance, pending final written decision, for the following reasons:

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

Motion by Mr. Kingree, seconded by Mr. Lovenguth, carried that **the variance 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

### **ADDITIONAL BUSINESS**

**Meeting adjourned at 7:25 p.m.**