

MINUTES OF JANUARY 27, 2025

The regular meeting of the Sussex County Board of Adjustment was held on Monday, January 27, 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 Mr. Travis Hastings presiding. The Board members present were Dr. Kevin Carson, Mr. John T. Hastings, Mr. Shawn Lovenguth, and Mr. John Williamson. Also, in attendance were Mr. James Sharp, Esquire – Assistant County Attorney, and staff members Ms. Ann Lepore – Planning and Zoning Planner 1, and Ms. Hannah Wyatt – Recording Secretary.

The Pledge of Allegiance was led by Mr. Hastings.

Motion by Dr. Carson, seconded by Mr. Lovenguth and carried unanimously to approve the agenda as amended with the removal of Case No. 13033. Motion carried 4 – 0.

The vote by roll call; Mr. Williamson – yea, Mr. Hastings – yea, Dr. Carson – yea, and Mr. Lovenguth – yea.

Motion by Mr. Williamson, seconded by Dr. Carson and carried unanimously to approve the Minutes for the November 4, 2024, meeting. Motion carried 4 – 0.

The vote by roll call; Dr. Carson – yea, Mr. Lovenguth – yea, Mr. Williamson – yea, and Mr. Hastings – yea.

Motion by Mr. Williamson, seconded by Mr. Lovenguth and carried unanimously to approve the Minutes for the November 18, 2024, meeting. Motion carried 4 – 0.

The vote by roll call; Dr. Carson – yea, Mr. Lovenguth – yea, Mr. Williamson – yea, and Mr. Hastings – yea.

Motion by Dr. Carson seconded by Mr. Lovenguth and carried to approve the Findings of Facts for the November 4, 2024, meeting. Motion carried 4 – 0.

The vote by roll call; Mr. Williamson – yea, Mr. Lovenguth – yea, Dr. Carson – yea, and Mr. Hastings – yea.

Motion by Mr. Lovenguth seconded by Mr. Williamson and carried to approve the Findings of Facts for the November 18, 2024, meeting. Motion carried 4 – 0.

The vote by roll call; Mr. Williamson – yea, Mr. Lovenguth – yea, Dr. Carson – yea, and Mr. Hastings – yea.

PUBLIC HEARINGS

Case No. 13034 – Karin Kemper and Isabel Lavadenz seeks a variance from the side yard setback for a proposed structure (Section 115-183 and 115-25 of the Sussex County Zoning Code). The property is located on west side of Sandalwood Drive within the Sandalwood Subdivision. 911 Address: 4 Sandalwood Drive, Rehoboth Beach. Zoning District: AR-1. Tax Map: 334-13.00-346.00

Ms. Lepore presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application, and zero mail returns. The Applicants are requesting:

- 5 feet variance from the 15 feet side yard setback on the north side for a proposed addition.

Mr. Zach Kuhns was sworn in to give testimony for this application.

Mr. Kuhns testified that he is the Applicants' contractor; that the Applicants are requesting this variance because they want to build an addition onto the house for an office and gym; that, due to the pool location, the structure would have to be closer to the property line; that the pool would only be 5 feet from the door without a variance; that the addition would be small for proper functionality; that the home was purchased from a prior owner; that the Applicants did not create the exceptional practical difficulty as they purchased the home already built and did not choose the location of the home; that it will not alter the character because it will be in the rear of the home and will match the home, style, and color; that 6 foot privacy fence would also partially cover the addition; that they would only need 5 foot variance into the 15 feet setback which is the minimum variance necessary; that there is a sunroom on the other side of the house; that the addition is for office space and an exercise area; that the addition is near the existing bedroom; that, if the addition was reduced in size, it would not be large enough; that there will be a small hallway to the addition; that the addition will be 1 story; that he is not sure if there is a well and septic on the lot; that homeowner association approval is needed and has not yet been obtained; that the Applicants discussed a stand-alone structure but they need inside access for the office; and that they did not want it to be considered a pool house if it was a standalone structure.

Ms. Sharon Owens was sworn in to give testimony in opposition of the Application.

Ms. Owens testified that the beauty of the neighborhood is that everyone in the community is respectful of Sussex County's rules; that she lives at 6 Sandalwood and Lot 3 which is a nearby home of the Applicants; that, when she bought her house, the property also had a pool and they moved the pool at great expense to meet the Code and would like them to consider that; that the development is unique and rural compared to newer houses being built; that the community has run-off problems and this would not help with the run-off; that newer homes in the development have built up instead of

adding additions; that others in the neighborhood have “problem solved” to meet the Code; that the owners of nearby Lot 10 wanted similar relief but built up rather than out; that she believes there are solutions without encroachments; that Lot 1 has run-off issues due to the sidewalk installation; that the community has a rural setting; that she is a former planner and insurance agent; that the HOA has always said that they abide by Sussex County Code; that she is concerned, if this variance is granted, it would create a domino effect within the community; and that she moved her pool so that she could build a deck.

Mr. Kuhns testified that, if they were to build up instead of an addition onto the back of the house, the cost would be much greater; and that the Applicants considered a standalone structure but did not love the idea.

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

Mr. Hastings closed the public hearing.

Dr. Carson moved to deny the application for Case No. 13034 for the requested variance, pending final written decision, for the following reasons:

1. The property can otherwise be developed in strict conformity with the Sussex County Zoning Code; and
2. The exceptional practical difficulty is being created by the Applicants.

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

The vote by roll call; Mr. Williamson – yea, Mr. Lovenguth – yea, Dr. Carson – yea, and Mr. Hastings – yea.

Case No. 13035 – Brian Cox seek a variance from the side yard setback for a proposed structure (Section 115-183 and 115-42 of the Sussex County Zoning Code). The property is located on the west side of Misty Lane. 911 Address: 32952 Misty Lane, Lewes DE 19958. Zoning District: GR. Tax Map: 334-11.00-95.00

Ms. Lepore presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application, and zero mail returns. The Applicant is requesting.

- 4.1 feet variance from the 10 feet side yard setback on the southeast side for a proposed garage addition.

Mr. Brian Cox was sworn in to give testimony for this application.

Mr. Cox testified that they bought this house in 2023; that their adult daughter is severely disabled; that the variance is so they can add an addition for an elevator and better living space for her so she can continue to live there; that the existing garage would stay and they would just fill in the space between the house and the garage with the addition and a second floor above the garage; that their daughter spends most of her time on the second floor; that the garage is compliant now because of square footage but when the addition goes in is where they need the variance; that the garage was already there when they bought the property; that the property is 100 feet wide at the street but only 91 feet wide where the buildings are located; that the addition will not alter the character of the neighborhood, in fact it would improve the look of the neighborhood; that the expansion is necessary for the safety of their daughter; that there will be a front door with an elevator and walkway constructed; that it is tough to get their daughter in and out of the car in the garage as it is now; that the wider garage will help with better access to the home; that there is no HOA; that it will be no closer to property line than the garage is now; that the neighbors are in support of the addition; that there is a mixture of houses in the neighborhood including double-wide manufactured homes and large houses; that there is a well and septic on the property; that the shed will be removed; that the well is in the front yard; that there is no flooding in the rear yard; that the plans will allow for the bedrooms to be on the same floor; that this addition will give better access to the house; that, by building this addition, they would be able to add a handicap accessible bathroom; and that there is a small bathroom on the first floor.

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

Mr. Hastings closed the public hearing.

Mr. Williamson moved to approve the application for Case No. 13035 for the requested variance, pending final written decision, for the following reasons:

1. The variance sought is the minimum variance necessary to afford relief;
2. The variance will not alter the essential character of the neighborhood.

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

The vote by roll call; Mr. Williamson – yea, Mr. Lovenguth – yea, Dr. Carson – yea, and Hastings – yea.

ADDITIONAL BUSINESS

Meeting adjourned at 6:47 p.m.

