

MINUTES OF JULY 13, 2026

The regular meeting of the Sussex County Board of Adjustment was held on Monday, July 13, 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. Shawn Lovenguth, Mr. Nate Kingree, Mr. Chuck McClure, and Mr. John Williamson. 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 Mr. Lovenguth, seconded by Dr. Hitchens and carried unanimously to approve the agenda as amended. Motion carried 5 – 0.

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

Motion by Dr. Hitchens, seconded by Mr. Lovenguth and carried unanimously to approve the Minutes for the May 4, 2026, meeting. Motion carried 5 – 0.

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

Motion by Mr. Kingree, seconded by Dr. Hitchens and carried to approve the Findings of Facts for the May 4, 2026, meeting. Motion carried 5 – 0.

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

PUBLIC HEARINGS

Case No. 13207 – Pot-Nets Bayside, LLC seeks a variance from the separation requirement for a proposed structure (Section 115-25 and 115-172 of the Sussex County Zoning Code). The property is located to the southwest side of Hillenwood Road. 911 Address: 34140 Hillenwood Road, Millsboro. Zoning District: AR-1. Tax Map: 234-30.00-2.00 Lot 22.

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received one letter in support of and one letter in opposition to the Application and nine mail returns.

The Applicant is requesting the following variance:

- 7.2 feet variance from the 20-foot separation distance requirement between a

proposed manufactured home and a shed on Lot 21.

Robert Tunnel was sworn in to give testimony for this application.

Mr. Tunnel testified that he is representing Pot-Nets Bayside, LLC, and the Applicant seeks a variance for the separation distance between the proposed structure on Lot 22 and the shed on Lot 21; that the Applicant surveyed the proposed layout of the vacant lot showing the location of the proposed structure, deck, shed, and then the distance from the shed next door; that, with the proposed structure, the lot is irregularly shaped and is bounded by water on the south side; that the lot is narrow and the building footprint only allows the Applicant to put the smallest manufactured home in the building envelope; that the proposed structure fits within the building footprint; that there is a 10 foot setback on all four sides of the lot and the only thing the Applicant seeks is the separation distance variance; that the proposed house fits within the building envelope on the lot but is 12 feet from the shed on the adjacent lot and the Applicant seeks a reduction of the separation distance from 20 feet to 12 feet; that there were alternatives that were discussed which included possibly moving the shed on Lot 21, however, that shed has been in that location for approximately 20 years and anywhere that it would be moved would create a blockage of the view for that lot; that these lots were the first lots established in Pot-Nets Bayside in 1962 and the lots were developed in 1963-1964 and there were no zoning laws at that time; that the Applicant is normally able to avoid requiring a variance as the Applicant will play with placements of structures between lots but, with this lot, the Applicant had no luck in making everything work without the variance; that this lot has been vacant since about 2015; that the Applicant is trying to put a small home on the lot to make it useable again; and that the prior home on the lot had a similar footprint to the proposed home.

Mr. Kingree asked about the shed on Lot 21 and who owns the shed and have they been asked to allow it to be moved.

Mr. Tunnel testified that the shed on Lot 21 is owned by the homeowner who leases that lot and the homeowner did not want to move its shed but the homeowner supported the variance and wrote a letter of support to allow this to be approved; and that Lot 21 is bordered by water on two sides.

Mr. Lovenguth asked about the previous home that was on Lot 22 and if the new home was going to have any decks or porches.

Mr. Tunnel testified that the previous home was a single-wide manufactured home with an addition attached to it and that the new one will be a double-wide manufactured home with deck and steps off the ends rather than the sides.

Dr. Hitchens asked about the possibility of drainage issues as there was a letter of opposition stating that a larger home may cause drainage problems.

Mr. Tunnel testified that historically this area does not have any drainage problems and there have been a number of drainage upgrades on Hill and Wood Road, as they were paved.

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. 13207 for the requested variance, pending final written decision, for the following reasons:

1. The property has unique physical conditions because the property is placed on a curve and is backed by the water;
2. The proposed manufactured home is similar in size to the prior home on the lot;
3. The property cannot otherwise be developed;
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 Applicant;
7. The variance will not alter the essential character of the neighborhood;
8. The variance will not substantially or permanently impair the appropriate use or development of adjacent property;
9. The variance will not be detrimental to public welfare;
10. The variance represents the least modification of the regulation at issue; and
11. The variance represents the minimum variance necessary to afford relief.

Motion by Dr. Hitchens, seconded by Mr. McClure, carried that the **variance be approved** for the reasons stated. Motion carried 5-0.

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

Case No. 13209 – Michael & Ellen McGoldrick seek variances from the maximum lot coverage and separation distance requirements in a manufactured home park for proposed structures (Section 115-25 and 115-172 of the Sussex County Zoning Code). The property is located to the east side of Harbor Road. 911 Address: 12 Harbor Road, Millsboro. Zoning District: AR-1. Tax Map: 234-25.00-6.00-4574.

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

The Applicants are requesting the following variances:

- 5.5 feet variance from the 20 feet separation distance requirement between a proposed shed and manufactured home on Lot 7;
- 4.1 feet variance from the 20 feet separation distance requirement between a proposed manufactured home and a manufactured home on Lot 5; and
- A 2% variance from the 35% maximum lot coverage for proposed manufactured home and decks.

Ellen McGoldrick was sworn in to give testimony for this Application.

Ms. McGoldrick testified that the Applicants are looking for variances to replace an aging home that was on the property; that the lot is very small and limited and it has been quite difficult finding something that will fit the footprint; that she found something a bit smaller than the existing home was, which gives her the opportunity to move an existing shed that was encroaching on her neighbor's property up against the house; that it moves it off the driveway and gives her the opportunity to replace the driveway all in the same footprint as the house that she had there before; that everyone in the neighborhood is starting to replace smaller homes that existed there; that next door on Lot 7 the manufactured home was replaced last summer; that the neighbors did a lot of fill in, which has caused the Applicants' property to flood quite a bit, along with a walkway that was put in two years ago and a road that was put in three years ago; that the two new homes that are directly across the street are also causing her property to flood a bit; that this new home is going to give her the opportunity to fill in where she had septic tanks and some of the other holes that are causing some sinkage of the ground itself; that the lot is small and limited on space due to the unique shape, with none of the sides are the same; that the lot is located in a flood zone which places restrictions on replacing the dwelling; that, due to those limitations and the neighboring properties already having their structures in place, the options that will fit the Applicants' budget have been exhausted; that this is the smallest dwelling that the Applicants could choose that would fit their budget and still accommodate their family; that the neighboring structures and lot size were not created by the Applicants, as these lots were all created in the 1950s; that this lot has been vacant for several years and has become an eyesore to the neighborhood and by installing the new home it will bring the value up to the area; that the Applicants have attempted to met all code requirements; that the Applicants looked at other homes but those homes also had encroachments issues; that the Applicants expanded their budget to find a home that required lesser variances; that the option the Applicants chose represents the least modifications of the regulations at issue; and that the prior manufactured home on the lot was 2 feet wider than the proposed manufactured home.

Mr. Sharp asked about the sewer and water and whether it was public or private.

Ms. McGoldrick testified that the neighborhood was changed over to public sewer and water years ago and the old septic on the property is developing into sink holes that she plans to fill in before placing the new home.

Mr. Sharp asked about the shed on the property and the location of the driveway.

Ms. McGoldrick testified that the shed is being removed as it was over the property line of Lot 7 by 5 inches and that the original driveway actually crossed onto Lot 7 also and that is why the Applicants were choosing a smaller dwelling than what was previously there so that the driveway will fit and remain on her property solely.

Mr. Sharp asked about the amount of impervious surface and the issues with drainage and flooding and by having more coverage than is permitted what impact that will have on the drainage and flooding of not only the Applicants' property but neighbors too.

Ms. McGoldrick testified that the neighbors have all done the same thing that she is trying to do and what they did was replace the old units with new ones and then fill in the property and raise the ground level with rock and dirt; that the house will be built up and she will be the same height as neighboring homes at approximately 8 to 10 feet above grade; that the neighbors and homeowners association support the request; and that the new home consists of 3 bedrooms and will have a similar footprint to the prior manufactured 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. 13209 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique physical conditions due to the irregular and narrowness of the lots;
2. The property cannot otherwise be developed;
3. 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;
4. The variances are necessary to enable reasonable use of the property;
5. The exceptional practical difficulty has not been created by the Applicant;
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 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 Dr. Hitchens, seconded by Mr. Lovenguth, carried that the **variances be approved** for the reasons stated. Motion carried 5-0.

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

Case No. 13210 – Rick & Stacie Shriver seeks a variance from the front yard setback requirement for a proposed structure (Section 115-42 and 115-182 of the Sussex County Zoning Code). The property is located to the south side of Cedar Street. 911 Address: 37612 Cedar Street, Ocean View. Zoning District: GR. Tax Map: 134-16.00-363.02.

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

The Applicants are requesting the following variance:

- 5 feet variance from the 30 feet front yard setback requirement for a proposed dwelling.

Greg Hastings was sworn in to give testimony for this application.

Mr. Hastings testified that he is from Hasting Associates design firm in Ocean View and is representing Stacie and Rick Shriver as they are designing their new home on this property; that this property has been in Mrs. Shriver's family for 35 years and has been passed down to Mrs. Shriver from her grandmother; that her grandmother had a small manufactured home on the lot and, once her mother took ownership, she replaced it with a newer one; that Mrs. Shriver and Mr. Shriver want to make this their retirement home; that the lot is shaped like a trapezoid, which makes it challenging to place a home; that, after several design meetings, the Applicants decided on a three bedroom home with a swimming pool; that the variance the Applicants are requesting is for the garage as the concern was to fit the swimming pool, hot tub, and recreation area into the layout; that the garage was the last thing to be designed and after everything was put into place the garage did not fit within the front setback of the property; that the garage was increased in size to accommodate everything that the Applicants want to put within it and that in order to fit their belongings and a vehicle this is the size that the Applicants would need; and that the proposed dwelling consists of 3 bedrooms and 3 bathrooms.

Mr. Lovenguth asked if the Applicants would be willing to minimize the variance from a five foot to a three-foot variance and have the garage be 22' x 25', rather than the original design of 22' x 27'.

Mr. Sharp stated that one of the standards the Applicants must meet is that this is the minimum variance to afford relief and if the Applicants can do it for less then they are required to do it for less.

Mr. Hastings testified that the garage measures 22 feet by 27 feet; reducing it two feet, when you take the length of a standard automobile, which is 21 to 22 feet, and the garage is not excessive

in width all of the storage is in the back of the garage, most people need a little bit of storage, then that is going to give the bare minimum, so the Applicants could work with a three foot variance; that the community has transitioned over the years from a manufactured home park to about half of the owners actually owning their lots; that it is transitioning from manufactured homes to conventional homes and there is no homeowners association; that the pool area is covered in the rear by the roofline of the home; that the home is built around the pool area to create a covered space for the pool, hot tub, and recreation area for the Shrivvers; that Mr. Shriver requested that the pool be covered and out of the direct sun as he is very fair skinned and he was concerned with the amount of sun exposure; that the reason this size home and recreational area was decided on was there were certain criteria that the Shrivvers wanted to meet when designing their retirement home; that the house is long and narrow because of the size of the lot that they have to work with; that reducing the pool area down would take away from their ability to entertain and utilize the space the way they want to; that the first floor of the dwelling will consist of 2,728 square feet and the second floor of the dwelling will consist of 776 square feet; that the deck will be 4 feet above grade; that the pool will be partially above ground; and that there will be no steps to the deck.

Mr. Sharp stated that one of the things the Board has to consider is that, once a property is vacant, there is case law that says, if you have a blank slate to work with, you should work within the building envelope that you are given; that, when looking at this property compared to others in the neighborhood there is no real difference in size or shape of the lots that makes it unable to be built within the setbacks; that the County has the small lot ordinance that allows for a lot less than 10,000 square feet to receive reduced setbacks and this lot is not under that size; that, when granting variances, the Board needs to be sure not to create precedent within the neighborhood; that, when someone comes in with a blank slate like this, there has to be some evidence as to why the applicant cannot build within the setbacks; that the pool has its own setbacks and that can be within six feet from the rear and, if the Applicants were to move the pool back, then the garage could potentially be moved back to comply with the setbacks.

Mr. Hastings testified that this is the final plan that was developed after several different renditions in an attempt to make the building fit within the building envelope; that moving the pool toward the rear lot line then makes the coverage from the roof of the home, which the Applicants requested, will no longer be available; that this was not created by the Applicants because anyone who has a desire to design a custom home can come with a parameter that they want and envision in that home; that this is the result of multiple renditions of this home with the least variance the Applicants could request; that the Applicants could reduce it down from the five foot to a three foot variance but that would be the most restrictive for them; that “anything is possible”; that there is a 5-6 foot gap between the front property line and the edge of paving of the road; that would be greater than 30 feet from the road; and that proposed dwelling will measure 50 feet deep by 100 feet wide.

The Board discussed with Mr. Hastings the ideas of downsizing the homes footprint in order to still include the pool but making the garage fit within the required setbacks; that there are options to change the rooms around, the size of the rooms or moving the structures to make the variance not

necessary; that the Applicants have a blank slate to fit their requests in and there are options that the Applicants can explore.

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 deny the application for Case No. 13210 for the requested variance, pending final written decision, for the following reasons:

1. The property does not have unique physical conditions;
2. The property can otherwise be developed;
3. The applicant has failed to demonstrate that the property cannot 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 will alter the essential character of the neighborhood;
7. The variance will substantially or permanently impair the appropriate use or development of adjacent property;
8. The variance will be detrimental to public welfare;
9. The variance does not represent the least modification of the regulation at issue; and
10. The variance does not represent the minimum variance necessary to afford relief.

Motion by Dr. Hitchens, seconded by Mr. Lovenguth, carried that the **variance be denied** for the reasons stated. Motion carried 5-0.

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

Case No. 13211 – Alan R. Passwaters 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 west side of Seaford Road. 911 Address: 26706 Seaford Road, Seaford. Zoning District: AR-1. Tax Map: 132-6.00-164.00.

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

The Applicant is requesting the following variance:

- 14 feet variance from the 20 feet rear yard setback requirement for a proposed detached garage.

Michael McGoerty, Esquire, stated that he was representing the Applicant and would be addressing several questions to him about the Application.

Alan Passwaters was sworn in to give testimony for this application.

Mr. Passwaters testified that on this lot the septic system is from 1988.

Mr. McGroerty stated that the uniqueness about the parcel is the old septic system will need to be replaced and the lot is only 105 feet wide; that the garage was pushed to the rear of the lot to provide access; and that the exceptional practical difficulty was not created by the Applicant.

Mr. Passwaters testified that he purchased the property on April 20, 2026, and the property was this way when he purchased it; that he has been an auto mechanic for 20 years and has had a towing company for about that long too; that he has a 25 foot boat with a 28 foot trailer and has 7 antique cars that he plans to store in the pole buildings; that the need is there for some place to store not only his personal vehicles but the towing equipment too; that the reason he cannot build a smaller pole building is because each of the vehicles is approximately 20 feet long and he needs enough space to be able to not only store them but also work on them; that there is no garage on the property; that the pole building will not alter the characteristics of the neighborhood as many other homes have similar garages or storage buildings on their property; that he was submitting photos into the record of the neighboring homes and their garages and how close they are in proximity to the property lines; that a neighbor's pole building is approximately 15 feet from the rear property line; that another neighbor has a 30' x 30' garage and the owner of Parcel 165 has a garage approximately 3 feet from the side property line; and that the purpose of those photos in those exhibits is to demonstrate that building a 30' x 40' garage is consistent with the neighborhood and the garages on adjoining properties.

Mr. McGroerty stated that the garage is consistent with the neighborhood.

Mr. Passwaters testified he needs the garage to prevent theft.

Mr. McGroerty stated that the property is narrow, as shown in the survey, as it is only 105 feet wide; that, with the location of the existing dwelling, the location of the septic tank, and the septic drainage field the area behind the house needs to be reserved to meet the modern requirements of a septic system and drainage field; that this is a 38-year-old septic system and eventually it is going to have to be expanded and trucks are going to have to be able to get in there with equipment to work on it; that, if the garage is moved too close to the septic system, that room will not be there and the existing physical attributes of the property create the difficulty; that the exhibits show that the location of this garage will not alter the essential character of the neighborhood; that the neighbor's garage is 3 feet from the sideline and about 10 feet from the rear line and another neighboring garage is about 15 feet from the property line.

Mr. Passwaters testified that all of these neighboring garages are about the same size as the one he is proposing; that these variances are the smallest variance he needs to put in the garages and be able to fit his boat, tow truck and all of his tools.

Mr. Sharp asked if the Applicant had considered making the garage narrower and longer in order to make it fit within the setback but still achieving the square footage that he is looking for.

Mr. McGroerty stated that the problem with that is the boat and trailer are 28 feet long, will not be able to get the boat around the building and into the garage with the entrance on the end; that, if the Applicant put the entrance on the front, the trailer will not fit and, if it was narrower, then the Applicant would need to expand the building more towards the area that the septic area would be and the Applicant would not want to be driving a truck and trailer over that area; that the dwelling is not large enough to store the belongings; that he believes the septic system will need to expand both north and south at some point; that the septic system may have to be moved closer to the rear; and that the Applicant has not yet met with a septic engineer.

Mr. Passwaters testified that the driveway will be moved to the south; that there will be no more than 4 vehicles in the garage; that he spoke with his neighbors and they support the request; that there are mature trees along the property line; and that the shed has been demolished.

Mr. Passwaters 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. Lovenguth moved to approve the application for Case No. 13211 for the requested variance, pending final written decision, for the following reasons:

1. The property has unique physical conditions because of the location of the property's septic system, mature trees, and the narrowness of the property;
2. The property cannot otherwise be developed;
3. 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;
4. The variance is necessary to enable reasonable use of the property;
5. The exceptional practical difficulty has not been created by the Applicant;
6. The variance will not alter the essential character of the neighborhood;
7. The variance will not substantially or permanently impair the appropriate use or development of adjacent property;
8. The variance will not be detrimental to public welfare;
9. The variance represents the least modification of the regulation at issue; and
10. 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 5-0.

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

Case No. 13212 – Alan R. Passwaters 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 west side of Seaford Road. 911 Address: 26718 Seaford Road, Seaford. Zoning District: AR-1. Tax Map: 132-6.00-163.00.

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

The Applicant is requesting the following variance:

- 14 feet variance from the 20 feet rear yard setback requirement for a proposed detached garage.

Mr. Sharp stated for the record, we have present Alan Passwaters, who has previously been sworn in, and Michael McGroerty, who is Mr. Passwaters' attorney; and that the Board heard testimony in the previous application, Case Number 13211, regarding the adjacent property.

Mr. Passwaters testified that there are no changes in his testimony from the previous application and he would adopt his testimony from Case No. 13211; that the statements on that case are the same for this case as well; that the exhibits that were submitted in the previous application be applied as evidence to this application also; that the survey that was submitted in the previous application is the same as the survey that will be used for this application also.

Mr. McGroerty stated that the only thing that the Applicant wants to add to this application is that he needs the approval of both garages so that he can put four cars in each, not surpassing the maximum number of allowable per building.

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

Mr. Williamson closed the public hearing.

Mr. McClure moved to approve the application for Case No. 13212 for the requested variance, pending final written decision, for the following reasons:

1. The property has unique physical conditions because of the area of the developed septic area and the need for storage for his vehicles;
2. The property cannot otherwise be developed;
3. 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;
4. The variance is necessary to enable reasonable use of the property;
5. The exceptional practical difficulty has not been created by the Applicant;
6. The variance will not alter the essential character of the neighborhood;
7. The variance will not substantially or permanently impair the appropriate use or development of adjacent property;
8. The variance will not be detrimental to public welfare;
9. The variance represents the least modification of the regulation at issue; and
10. The variance represents the minimum variance necessary to afford relief.

Motion by Mr. McClure, seconded by Mr. Kingree, carried that the **variance be approved** for the reasons stated. Motion carried 5-0.

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

Case No. 13213 – Anthony M. Reed, Sr. seeks a variance from the front yard setback requirement for an existing structure (Section 115-34 and 115-182 of the Sussex County Zoning Code). The property is located to the west side of E. Stoney Run. 911 Address: 37148 E. Stoney Run, Selbyville. Zoning District: MR. Tax Map: 533-19.00-372.00.

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

The Applicant is requesting the following variance:

- 9.4 feet variance from the 30 feet front yard setback requirement for an existing porch.

Anthony Reed was sworn in to give testimony for this application.

Mr. Reed testified that he is seeking a variance for his front porch on his home in the Keenwick Sound subdivision; that the lots within that subdivision are small and his lot is 100 feet deep by 80 feet wide; that there are only 36 lots within the subdivision that are 100 feet or less in depth; that the front property line on his property is approximately 19 feet from the edge of the road; that the front porch is approximately 39.4' from the edge of the road; that there are other lots in the neighborhood with structures closer to the front yard property line; that, due to the shallowness of the lot and placement of the house, the front porch will not be able to meet the setback requirements; that the Applicant did not know that the front porch was not within the setback requirements as he had a

builder who handled everything and the contractor built it without checking the front yard setbacks.

Robert Furbush was sworn in to give testimony about this application.

Mr. Furbush testified that he is the contractor who built the front porch for the Applicant and that he applied for the permits and signed off on the paperwork with the setbacks listed; that he did not check the actual distance from the setback; that he assumed that the front porch was good because there were many other homes within the development that are closer to the road than the Applicant's porch; that the dwelling on Lot 112 is 33' from the road; that the dwelling on Lot 261 is 36' from the road; that the dwelling on Lot 113 is 37' from the road; that the dwelling on Lot 26 is 43' from the road; that the porch is 39' from the edge of the road; that this porch does not make the Applicant's home appear any closer to the road than any of the neighboring homes; that there is about 18 feet from the property line to the edge of the road so the distance appears to be more than enough to fit the porch; that he made a mistake because he thought the gap was 5 feet rather than 18 feet; that there was an uncovered porch on the home and he just covered and enclosed it so that is why the Applicant did not think it would be an issue because the porch has been there; and that the house was built in the mid-to-late 1980s.

Mr. Reed testified that he has received compliments from his neighbors; there has been no complaints about this and that his neighbors are very happy with the way it turned out and how well it looks; that most neighbors are questioning why a variance would be needed for it because it does not appear to be a problem; that the front porch is needed for some place to enjoy the outside with coverage from the weather and the bugs; that the steps will be on the side of the driveway not protruding into the yard; that the Applicant received approval from the homeowners association prior to covering the porch; and that the porch is the same size as the prior uncovered porch.

The Board found that two people appeared in support of 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. 13213 for the requested variance, pending final written decision, for the following reasons:

1. The property conditions were pre-existing when the contractor built the roof over the deck and there was such a large distance from the property line to the edge of the road which was misleading in the amount of space that they had;
2. The property cannot otherwise be developed;
3. 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;
4. The variance is necessary to enable reasonable use of the property;
5. The exceptional practical difficulty has not been created by the Applicant;

6. The variance will not alter the essential character of the neighborhood;
7. The variance will not substantially or permanently impair the appropriate use or development of adjacent property;
8. The variance will not be detrimental to public welfare;
9. The variance represents the least modification of the regulation at issue; and
10. The variance represents the minimum variance necessary to afford relief.

Motion by Mr. Lovenguth, seconded by Mr. McClure, carried that the **variance be approved** for the reasons stated. Motion carried 5-0.

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

ADDITIONAL BUSINESS

Meeting adjourned at 7:51 p.m.