

MINUTES OF JULY 21, 2025

The regular meeting of the Sussex County Board of Adjustment was held on Monday, July 21, 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 Dr. Kevin Carson, Mr. Shawn Lovenguth, Mr. John Williamson, and Dr. Lauren Hitchens. 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 Dr. Carson, seconded by Mr. Lovenguth and carried unanimously to approve the agenda. Motion carried 4 – 0.

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

Motion by Mr. Lovenguth, seconded by Dr. Carson and carried unanimously to approve the Minutes for the June 2, 2025, meeting. Motion carried 4 – 0.

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

Motion by Dr. Carson seconded by Mr. Lovenguth and carried to approve the Findings of Facts for the June 2, 2025, meeting. Motion carried 4 – 0.

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

Motion by Mr. Lovenguth, seconded by Dr. Carson and carried unanimously to approve the Minutes for the June 16, 2025, meeting. Motion carried 4 – 0.

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

Motion by Dr. Carson seconded by Mr. Lovenguth and carried to approve the Findings of Facts for the June 16, 2025, meeting. Motion carried 4 – 0.

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

Motion by Mr. Lovenguth, seconded by Dr. Carson and carried unanimously to approve the Minutes for the July 7, 2025, meeting. Motion carried 4 – 0.

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

Motion by Dr. Carson seconded by Mr. Lovenguth and carried to approve the Findings of Facts for the July 7, 2025, meeting. Motion carried 4 – 0.

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

PUBLIC HEARINGS

Case No. 13077 – Ernest Messick seeks a variance from the side yard setback requirement for an existing structure and 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, 115-25, and 115-183 of the Sussex County Zoning Code). The property is located on the north 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 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;
- A 152 square foot variance from the 1,000 square foot maximum allowable square footage for an accessory dwelling unit; and
- A 4.7 foot variance from the 15 foot side yard setback requirement on the northwest side for a proposed addition.

Mr. Michael McGroerty, Esquire, was sworn in to provide testimony about the Application.

Mr. McGroerty testified that Ernest and Sue Messick own the property; that the Applicant had the home with a patio and garage originally and decided to convert the garage area into addition to the home with a bedroom, kitchen, and bathroom; that, due to the County Code this addition is classified as an accessory dwelling unit due to the second kitchen; that this addition was completed approximately twenty (20) years ago; that there are four entrances to the addition; that the unit is not separate from the house as it was built to accommodate the Applicant's mother who had cancer and is now deceased; that this space was used for family and was not being rented out; that the unit has been there for several years without complaint; that the utility room is part of the ADU but is used for the entire dwelling; that the unit was intended as an in-law suite; that they have received no complaints and the neighbor supports the request; that the ADU consists of the entire garage and part of the

addition; that the property is located in a flood zone; that the original dwelling was built prior to the flood zone determination; that the flood zone determination impacted where the addition could be built; that the property is serviced by well and septic; that the property is adjacent to Hearn's Pond; that the property has plenty of parking for the ADU and the primary dwelling; that the family is selling the property and have now found that the addition is non-compliant and, in order for the sale to proceed, this application will need to be approved.

Mr. Steven Zimmer was sworn in to give testimony about the Application.

Mr. Zimmer testified that he lives next door to the property; that the septic system is located behind the house; that the flood zone plans changed several years ago; that the property is within the flood zone; and that the property has not flooded since the dam was fixed.

The Board found that two (2) people appeared in support of the Application and no one appeared in opposition to the Application.

Mr. Williamson closed the public hearing.

Dr. Carson moved to approve the application for Case No. 13077 for the requested variance and special use exception, pending final written decision, for the following reasons:

1. The variances and special use exception will not alter the essential character of the neighborhood; and
2. The variances sought are the minimum variances necessary to afford relief.

Motion by Dr. Carson, seconded by Mr. Lovenguth, carried that the **variances and special use exception be approved for the reasons stated.** Motion carried 4 - 0.

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

Case No. 13079 – Arnold & Eleanor Smith seeks 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) and 115-23 of the Sussex County Zoning Code). The property is located on the northwest side of Asbury Road, Georgetown. 911 Address: 24708 Asbury Road, Georgetown. Zoning District: AR-1. Tax Map: 231-15.00-22.06 and 231-15.00-22.00

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

The Applicants are requesting the following:

- A special use exception for an accessory dwelling unit; and
- A 191 square foot variance from the 1,000 square foot maximum allowable square footage for an accessory dwelling unit

Mr. Mark Davidson and Ms. Deanna Killen were sworn in to give testimony about the Application.

Mr. Davidson testified that he is presenting the Application for a non-conforming accessory dwelling unit that was permitted back on October 25, 2002, for use by Arnold Littleton Smith and Evelyn Mary Smith, the parents of the current owners of this property; that the home was incorrectly permitted and placed on Parcel 22.00 instead of Parcel 22.06; that the Smiths have owned this property since 1954, approximately 71 years; that the properties are identified as Tax Map Parcel Nos. 231-15.00-22.00 and 22.06; that the properties are located adjacent to Asbury Road and Old Furnace Road; that the property surrounding this application are lands owned by members of the Smith family; that the area is characterized as residential and agriculture; that Parcel 22.00 has a current area of 11.24 acres, more or less, and Parcel 22.06 has a current area of 3.29 acres, more or less; that, around 2000, they subdivided out three parcels for their daughters; that the ADU in this application is located on Parcel 22.00; that the Certificate of Occupancy was granted for this in 2002 and the ADU was placed for the Smiths' parents and was supposed to be attached to this principal dwelling unit located on Parcel 22.06; that Mr. Whitehouse and he discussed that this is a non-conforming ADU because it was placed on Parcel 22.00 and there is an existing dwelling located on that parcel, at the intersection of Asbury and Old Furnace Road; that the Smiths thought it was being placed on Parcel 22.06; that the family is preparing their estate and will need to complete a lot line adjustment to place the existing ADU onto Parcel 22.06 as originally intended; that there is a request for a variance from Sections 115-20(A)(15)(C), a 191 square foot variance from the 1,000 square foot maximum floor area for an ADU and 2.82% variance increase over the maximum 50% ADU floor area of the single family dwelling located on the same lot; that the principal dwelling unit on Parcel 22.06 consists of 2,255 square feet and the ADU consists of 1,191 square feet, requiring the 191 square foot increase over what the ADU is allowed under the Code; that the ADU is over the 50% ADU floor area, at 52.82% of the size; that the variance the Applicants seek is for the 191 square feet and 2.82%; that the ADU will have its own separate driveway with sufficient parking; that the ADU will not encroach on any setbacks and it will be located behind the primary dwelling; that, if this variance is granted, the next step is to complete the lot line adjustment so that the ADU will be located on Parcel 22.06; that the unique physical condition of the property could be attributable to its shape, given that the permit granted was for the ADU was associated with Parcel 22.06 but was placed on Parcel 22.00; that, when the building permit was issued and the certificate of occupancy was granted, this then became an ADU associated with the main dwelling on Parcel 22.00, when the intent of the ADU was for the main dwelling on Parcel 22.06; that this otherwise cannot be developed; that the utilities and access benefiting the ADU is burdening Parcel 22.06; that the septic for this ADU is an existing mound system connected to the septic system on Parcel 22.06; that the Applicants placed the ADU for their parents to reside back in 2003 and had associated the ADU with the ADU to be associated with the

main dwelling on Parcel 22.06 and were not aware that the ADU was on the adjacent Parcel 22.00 until Pennoni surveyed the property in 2025 for their family estate planning; that the essential character of the neighborhood will remain the same as it has been previously approved through building permits and certificates of occupancies for the Smith family; that the variance requested is the minimum variance that will afford relief for the non-conforming ADU under the requirements of Section 115-20(A)(15); that the special use and the variances associated with the ADU will not adversely affect the adjacent and neighboring properties, and it does not otherwise impair the public health, safety, comfort, morals and general welfare, create a nuisance, diminish or impair property values within the neighborhood.

Dr. Hitchens asked if the ADU is currently being occupied.

Mr. Davidson testified that it is currently being rented by a family and that there have been no complaints about the ADU.

Mr. Sharp asked if the home was a mobile home.

Mr. Davidson testified that it is a modular home.

Mr. Sharp asked staff if there was a special use exception granted for that manufactured home because back then we would usually have a special use exception granted for a manufactured home for those kinds of uses.

Ms. Norwood stated that the permit was issued on Parcel 22.00 with the acreage on the permit, it was noted as for a farm and that would permit at least one other mobile home or manufactured home and that is probably how it got permitted.

The Board found that two (2) people 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. 13079 for the requested variance, pending final written decision, for the following reasons:

1. The variance will not alter the essential character of the neighborhood;
2. The variance will not permanently impair the uses of neighboring properties nor be detrimental to the public welfare; and
3. The variance represents the minimum variance necessary to afford relief.

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

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

Case No. 13095 – Brice and Barbara Milligan seek a variance from the side yard setback requirement for a proposed structure (Section 115-25 and 115-183 of the Sussex County Zoning Code). The property is located on the east side of Hensley Road. 911 Address: 21823 Hensley Road, Seaford. Zoning District: AR-1. Tax Parcel: 531-6.00-112.03

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:

- 4.7-foot variance from the 15-foot side yard setback requirement on the south side for a proposed detached garage.

Bryce Milligan and Barbara Milligan were sworn in to give testimony about the Application.

Ms. Milligan testified that she and her husband purchased the home eight (8) years ago; that the property consists of 1.92 acres; that the previous owner placed the home close to the south side of the property due to the driveway placement and the location of the septic and well; that the area at the end of the driveway was cleared for the placement of a detached garage but it was never put in; that they started the process to place the garage and, in their research, found that they believed their side yard setbacks were five (5) feet and when they went to get the permit the process was stopped because the garage plans had it encroaching into the side yard setback; that now they are going through this application process to build the garage to be within code; that, if they attempted to place the garage anywhere else on their property, it would be a large financial burden because it would require them to cut down many trees, remove many stumps, and bring in a lot of fill dirt; that their yard is fully wooded with the exception of the clearing at the end of the driveway and the area in which the septic and well are; that, if they decreased the size of the garage and moved it, the garage would be on top of the home with little to no room to walk through; that the garage will not affect the character of the neighborhood since there is no one else that is close to the Applicants except for the one neighbor that said they were fine with it; that the problem was not created by us because, when they bought the house, it was too close to the right side of the property to begin with leaving nowhere else to put the garage except for at the end of the driveway; that the stairs and sidewalk limit the placement as well; and that there is no homeowners association governing the neighborhood.

Dr. Carson asked what the intended use of the garage would be and if there was any consideration to going with a smaller building to meet the code requirements.

Ms. Milligan testified that the garage will be used for the storage of their vehicles and for her

husband to work on the cars; that, if they downsized to 24 feet, it would be hard to fit two (2) cars side by side and that would still have to move the building over three (3) feet, which would put it right against the house; and that they would not be able to be able to access their backyard and it would be just by the stairs to the deck.

Mr. Milligan testified that, if a smaller garage was placed, it would provide just enough room to pull vehicles in, and no work would be able to be done in there.

Mr. Sharp asked about the location of the well and septic.

Ms. Milligan testified that the well is located to the south of the driveway and that the septic system is a mound system located in the middle of the front yard.

Mr. Lovenguth asked if the Applicants have considered changing the depth of the garage instead of being so wide to make it longer.

Ms. Milligan testified that, in order to do that, they would need to take down trees and remove stumps because the current area that they want to place it was cleared by the previous owner of the home; and that they cannot afford to do a longer and narrower garage due to tree removal and fill dirt.

Ms. Norwood noted that staff received one letter in support of the Application.

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

Mr. Williamson closed the public hearing.

Dr. Carson moved to approve the application for Case No. 13095 for the requested variance, pending final written decision, for the following reasons:

1. The property has unique physical characteristics as the home has been placed askew on the lot;
2. The exceptional practical difficulty has not been created by the Applicants;
3. The variance will not alter the essential character of the neighborhood; and
4. The variance sought represents the minimum variance necessary to afford relief.

Motion by Dr. Carson, 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, Dr. Carson – yea, and Mr. Williamson – yea

Case No. 13096 – Colleen Shields and Helene White seek variances from the front yard setback

and maximum fence height within the front yard setback requirements for proposed structures (Section 115-42 and 115-182 of the Sussex County Zoning Code). The property is located on the east side of Holly Terrace Road. 911 Address: 32418 Holly Terrace Road, Ocean View. Zoning District: GR. Tax Parcel: 134-9.00-190.00

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 Applicants are requesting the following variances:

1. 22-foot variance from the 30-foot front yard setback requirement for a proposed in-ground pool.
2. 0.5-foot fence height variance from the 3.5-foot maximum height allowed in the front yard setback.

Ms. Colleen Shields was sworn in to give testimony about the Application.

Ms. Shields testified that she and her sister are the property owners of this land and it has been in their family since their parents bought it in the 1970s; that, when their father died in 2020, they inherited the property and intend to keep it as a family property for their children to enjoy; that there is no intention to rent this property out and, because the family will be using it, they want to put in a swimming pool; that they have 6 grandchildren; that they would like to place the pool on the side of the house and by doing so it encroaches on the front yard setback because of the large cul-de-sac in front of their home; that the space between the boat ramp and the house is the only place to put the pool and that entire area will be in violation of the front yard setback because of the cul-de-sac; that they want to place a fence around the pool and because it is in the front yard setback they would need a variance for the fence height requirement for the a pool; that the required height around a pool is 4 feet but, if a fence is in the front yard setback, then the height is supposed to be 3.5 feet; that they did not create the hardship; that they inherited the property with the cul-de-sac; that they are seeking the minimal variance to accommodate being able to put the pool in; that it will not disrupt the character of the neighborhood; that it is a resort kind of a community where a lot of people have swimming pools; that it would not affect the use by anybody else and it will not affect the ability to access and use the right-of-way; that neighbors are enthusiastic; that there is no homeowners association; that the garage is used for storage; that it could be cleared out to park 2 cars; that they have not experienced flooding issues; that Parcel 191 is owned by the Applicants and they plan to conserve that; that there is 8 feet from the cul-de-sac to the water in the pool; that the pool cannot be closer to the lagoon due to the need for tie-downs; that the house has been on the property since 2008 when variances were granted; and that the eave of the garage goes over the lot line.

Dr. Carson asked if there was any consideration taken into the size of the pool and the area that it affected.

Ms. Shields testified that they are not going with a terribly large pool but there are six (6) grandchildren and they wanted to choose a pool that was not overly large but that would fit in the space and that would be able to accommodate the family.

Mr. Lovenguth asked if the boat ramp was utilized by the Applicants and if, so, would the placement of the pool affect access to the ramp; and he asked whether the height variance strictly for privacy or for safety purposes also.

Ms. Shields testified that they use the boat ramp frequently and that the pool and fence would not affect the ability to use or access the boat ramp; that Blue Haven Pools has been assisting with the pool process and they have been working to find the best location and placement of the pool with the least areas of restrictions; and that the fencing is mostly for privacy as they plan to have an electronic cover on the pool for safety when the pool is not in use.

Mr. Sharp stated that, based on the survey, the cul-de-sac is the land of someone else and the area that is the cul-de-sac is not owned by the Applicants; that the cul-de-sac would be part of Holly Terrace and, if the Applicants put that pool in, where are the Applicants going to park a vehicle on the property; that the house where the front corner appears to be at the property line, if not over it, a pool where the edge of it is going to be almost on the property line and a boat ramp there as well; that almost the entirety of this lot, if this pool gets put in, is going to be used for a structure or an access for the ramp; that there is almost no part of this property that is otherwise open and one of the things that the Board look at from a zoning perspective is, if you have a lot, where are you parking the vehicles; and while that may not be an issue now or for you but, if 20 years from now, ownership changes and that cul-de-sac becomes necessary for emergency vehicles how would a fire truck be able to safely access that if all the vehicles were parked in the driveway; and that becomes something the Board looks at because the approval runs with the land

Ms. Shields testified that the driveway is technically within the cul-de-sac property and that is where they have been parking for the last 50 years but there is a two-car garage attached to the house that they could utilize if the driveway was no longer available; that it is basically a “paper” cul-de-sac, and that the Applicants are pretty much the only ones utilizing it.

Dr. Carson asked if the pool could shift to the closer to the lagoon on the right-hand side.

Ms. Shields testified that Blue Haven Pools told them no because of the concern about the tie ins from the bulkhead and hitting the tie ins if they dig down there; and that they tried to configure it as best we could to accommodate the space and not have to seek too much of a variance.

Mr. Carson asked Ms. Norwood if there are any other variances for this property on record.

Ms. Norwood stated that there was a front yard variance in 2008 for the dwelling that was built, and the Certificate of Compliance was issued for the dwelling at that time.

Mr. Sharp stated that a side yard variance was issued in 2009 for a cantilever window on the south side of the property.

Ms. Helene White was sworn in to give testimony on the Application.

Ms. White asked that when the house was built didn't the variances that were granted allow for all of these things to be allowed?

Mr. Sharp stated that there were variances that were granted at that time and the Board used a much lower and much less strict standard than we do now; that there was a Supreme Court case that came out a few years later that requires the Board to use a higher standard; that, while it was approved in 2008 and 2009, it was approved at that time under a different standard; that the Board is now required to use a more exacting standard and the Court has required us to do so; that the Applicants' father got approval for that house and for the cantilever window but that approval does not necessarily grant the Applicants the ability to have this pool put on there just because the prior variance was issued.

Dr. Carson asked Mrs. Norwood how far into the property line can the fence go into.

Ms. Norwood stated that the fence can go to the property line and the only reason for the variance is due to the height.

Ms. Shields testified that Blue Haven Pools did not intend to have the fence over the property line; and that the drawing may be misrepresented as it is supposed to be placed on the property line.

Dr. Carson stated that, if this Board were to approve the requested variances under the condition that the fence line is on the property that they own and they would have to maintain the walk around distance and those types of things, would that be acceptable to the Applicant?

Ms. Shields testified that they would make sure that the fence is on the property owned by them and not to cross over.

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

Mr. Williamson closed the public hearing.

Dr. Carson moved to approve the application for Case No. 13096 for the requested variances, pending final written decision, with a condition that the fence be placed on the Applicants' property and not to cross over into the property of the cul-de-sac and that all other code requirements for the pool be met, for the following reasons:

1. The property has unique physical characteristics not created by the Applicants;
2. The variances will not alter the essential character of the neighborhood; and
3. The variances sought are the minimum variances necessary to afford relief.

Motion by Dr. Carson, seconded by Mr. Lovenguth, carried that **the variances be approved with conditions for the reasons stated**. Motion carried 3-1.

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

Case No. 13097 – David and Linda Vandever seek variances from the rear yard setback requirements for proposed structures (Section 115-25 and 115-183 of the Sussex County Zoning Code). The property is located on the west side of Van Buren Avenue within the Edgewater Subdivision. 911 Address: 39126 Van Buren Avenue, Selbyville. Zoning District: AR-1. Tax Parcel: 533-20.19-8.01

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 variances:

1. 5.0 ft. from the 15 ft. rear yard setback requirement for a proposed deck and screen porch.

Mr. Tony Yanucci was sworn in to give testimony about the Application.

Mr. Yanucci testified that he is the contractor hired to complete the deck and screened in porch and was representing the Vandever's as they could not attend the meeting; that he is replacing the same deck that was previously on the property after the Applicants decided to take it down; that there was a variance approved back in 2000 but, because they tore it down, they have to redo the variance; that the new deck is going right back to the same area but is being shrunk down in size some; that they shrunk the deck down in size to be roughly 16 feet by 10 feet; that the deck will be about half the size of the original with a new section of decking and the stairs are going to be on the north side going towards the front of the house; that the side deck is within the setbacks so the variance is only for the rear; that the only difference that the Applicants are trying to do is to close that section in as a screen porch shrinking the deck; that the prior deck had been there for 25 years since November of 2000; that the deck will be similar to the neighbor's deck; that the porch will be under the deck; that main living floor of the house is the second floor; that the Applicants have owned the property for 7 years; that the prior owner placed the dwelling on the lot; and that the deck will be half as wide as the prior deck.

Dr. Hitchens asked for a description of the new placement of the stairs.

Mr. Yanucci testified that the steps will be at the north side of the house and they are going to come down to the front of the house; that there is a sliding door on the left side of the house, which is going to be the main entry to the new deck and the new steps will come down along there to the front of the house towards the driveway; that, when they exit the deck and they have guests, they can just leave directly down the steps to the driveway instead of coming back through the house; that the main living floor is on the second floor of this house and the first floor is all cinder block; that it is really just entryway with a couple of offices and rooms downstairs and it is not living space; that the 2 windows will be bay windows; that the house was built in the 1970s and there was previously a screen porch with the dwelling.

Mr. Sharp asked for clarification that it appears half of the original deck is being removed, and the porch underneath will be used for entertaining purposes and that no steps will be projected from the porch into the backyard.

Mr. Yanucci confirmed Mr. Sharp's statement.

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. 13097 for the requested variance, pending final written decision, for the following reasons:

1. There is no possibility that the property can be developed in strict conformity with the Sussex County Zoning Code;
2. The variance will not alter the essential character of the neighborhood;
3. The variance will not permanently impair the uses of neighboring properties;
4. The variance will not impair the public welfare;
5. The variance requested is less than what was previously approved; and
6. 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: Dr. Carson – yea, Dr. Hitchens – yea, Mr. Lovenguth – yea, and Mr. Williamson – yea

RECESS: 7:34 PM – 7:40 PM

Case No. 13093 – St. Jude the Apostle Church d/b/a Code Purple seeks variances from the 400-foot minimum setback from any existing dwelling on property of other ownership for a proposed park

or campground (Section 115-79 and 115-172 (H)(3) of the Sussex County Zoning Code). The property is located on the south side of Coastal Highway. 911 Address: 18006 Coastal Highway, Lewes. Zoning District: C-1. Tax Parcel: 334-6.00-526.01

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 the following variances:

1. 148.2-foot variance from the 400-foot requirement from a neighboring dwelling for a proposed park or campground;
2. 119.5-foot variance from the 400-foot requirement from a neighboring dwelling for a proposed park or campground; and
3. 6.1-foot variance from the 100-foot requirement from a public road for a proposed park or campground.

Mr. Alex Burns, Esq., with Brockstedt, Mandalas & Federico introduced himself and the remainder of the team that was working with the Applicant; that those in attendance were, Mr. Andrew Lyons, from GMB, Mr. Glenn Mandalas, Esq., from Brockstedt, Mandalas & Federico, and Mr. Frank Arena, the Director of Governance at Tharros Village.

Mr. Burns stated that Tharros Village is a seasonal, supervised transitional housing program; that the proposal supports the comprehensive plan objectives; that Sussex County Council approved the conditional use on June 17, 2025; that there were 24 comments in support of that application and zero comments in opposition; that this variance application is the final step in the County's approval process; that the Applicant operated the facility in 2024 without complaints or issues; that Savannah West is approximately 275 feet away; and that the Applicant cannot expand without affecting sensitive wetland areas.

Mr. Frank Arena was sworn in to give testimony about the Application.

Mr. Arena testified that Tharros Village is a low cost self-governed approach to help people who are unsheltered and homeless; that this proposal will be a secure one room solution to those struggling with homelessness; that the Applicant intends to treat its residents with respect, dignity, and hope and with a hand-up rather than a hand-out; that the site is located along Route 1 within a close proximity to the DART transportation and employment opportunities; that the site was previously used as the Delaware State Police Troop 7 location; that the site is located in a wooded area adjacent to Route 1; that he is a volunteer for Tharros Village; that this site will house 28 individuals, who will need to go through a screening process with volunteers from the church; that there is a three-step approach to the admission process, a written application, an in person interview and a commitment from the individual to abide by the rules of Tharros Village; that these individuals will be employed 15-20 hours per week, volunteering in an approved organization, or pursuing an

academic degree or trade certificate; that the actual location of the site is on about a half-acre portion of the 7 acre site; that most of the site is considered to be wetlands and that is why this area was chosen for the campground; that the location is right next to the DelDOT yard for their salt barns; that there is a tree line buffer between the campsites and the nearest community, Savannah West; that not only are they separated by the tree line but the salt barns also act as a buffer; that the campsites are surrounded by six foot galvanized fencing; that there is a pedestrian gate which is always open, and the pedestrian gate follows a gravel path to the three car parking spaces; that the Fire Marshal asked the Applicant to put in a locked pedestrian gate on the backside in case of an emergency in the woods, that they would be able to get a stretcher or their equipment into the woods; that the uniqueness of the property is that it is a very unique property as its location close to transportation, close to employment, nestled in a tree lined area basically out of sight; that, in addition to the six foot chain link fence, there is a privacy screen that also gives privacy both ways; that the fence is 75% opaque; that there will be a 10 foot gap between tents; that variance agencies will visit the site on a daily basis; that the situation about being equally distant from the women's shelter and the men's shelter plays a big role because it is non-profit and it is all volunteer driven and the volunteers largely come from the faith churches and communities in the immediate area; that the second part sort of goes hand in hand, cannot otherwise be developed; that, if you came to the property, you would see that we are right, adjacent and abutting to wetlands down sloping trees and there is no place to push the camp further away from Savannah West; that it is right at the very edge behind the DelDOT lot and, if anybody were to complain, they would complain about the salt barns before they complained about anything farther north than where the DelDOT yard is; that they cannot shift as the site is snuggled in between the DelDOT yard and the wetlands; that these limitations were not created by the Applicant; that it is just a natural terrain where it happens to be between the lot, the DelDOT yard and then the sloping; that adverse impact on the environment, the Applicant would say absolutely not; that the Applicant believes that it is improving the situation in the neighborhood because right now there are about 45 to 50 individuals living in the woods with no sanitation, no trash removal and no water; that Tharros Village offers a way to get qualified people out of the woods, put them in a situation where there is observations; that there are rules and services and amenities to support these people; that there will be porta potties, hand washing stations, meals are delivered three times a week; that, on Sundays, there is a bus that will take the residence to a church for a sit down Sunday dinner; that it improves the situation in the surrounding area because it is reducing the number of people living in the "Wild West" encampments with the trash that is building up and the sanitation that is happening back there; that the unsanitary conditions is ruining the environment; that the Applicant is seeking the minimum variance needed as the Applicant is only asking for whatever is needed that pushes the site away from the Savannah West community; that there is no opposition at this point; that the residents sign an agreement that, if they join Tharros Village, it is about respect and dignity; that there is zero tolerance for any kind of violence, whether that be verbal abuse or physical violence that gets a resident evicted immediately; that noise control hours are from 10:00 PM to 6:00 AM; that no drugs or alcohol allowed on the site whatsoever; that no weapons or any other instruments are permitted; that the Applicant requires the residents respect other people's property; that they piloted the program in 2024 with no issues; that he is unaware of opposition to the request; that the site opened on July 7, 2025, with 23 residents; that there is a wait list for the facility; and that the project adheres to the comprehensive plan.

Mr. Burns stated that the State of Delaware owns the Property; that the State entered into a memorandum of understanding through November 30, 2025, to allow the use to continue.

Dr. Hitchens asked how many residents were housed through this program in the year 2024.

Mr. Arena testified that they had 28 residents last year and that is the maximum that can be housed at the campsite because, when the campsite is shut down for the winter season, both the male and female temporary shelters can house 14 of each; that those shelters will run from November 30th to March 15th; that there was a gap in the available space from March 15 to July 7 which led to people living in the woods without support systems; and that the State limits them to one person per tent.

Mr. Lovenguth asked if the program houses repeat residents, meaning that there are residents who stay in the campsite, then go to the temporary shelter for the winter and return to the campsite again in the spring.

Mr. Arena testified that we are trying to identify people that are looking to move on, so yes, there are some repeat because coming out of homelessness does not happen overnight; that it is not even a six month journey as it can be two or three years; that the average number of years of homelessness for a typical resident is 2 1/2 to 3 years; and that the Applicant's goal is to move people through, not keep people in that vicious cycle.

Mr. Lovenguth asked about the monitoring of the site along with the admission of guests.

Mr. Arena testified that there are chaperones on site during the day with active cameras that can be seen by the local police department; that, during daylight, guests are allowed to come in and use the facility, but at dusk, there are no guests after dark; that it is self-governed so it is up to the people living there to protect their space by enforcing the rules; and that the volunteers are there during the day but not 24/7.

Mr. Sharp asked about the location of the wetlands on the property.

Mr. Arena testified that the chain link fence is the perimeter fence that the Applicant was instructed by the State to install that defines the half acre; that, if you go beyond that fence, the terrain slopes down and opens up and into the wetland which is not conducive for any camping or living back there; and that the slope goes down about 15 feet at the tree line; that they conduct a background check of all residents and collaborate with the Delaware State Police; that the Applicant has rejected prospective residents due background checks; and that no children are permitted on the site.

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

Mr. Williamson closed the public hearing.

Dr. Carson moved to approve the application for Case No. 13093 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique physical conditions;
2. The exceptional practical difficulty has not been created by the Applicant;
3. The variances will not alter the essential character of the neighborhood; and
4. The variances represent the minimum variances necessary to afford relief.

As part of his motion, Dr. Carson conditioned the approval on the Applicant entering into a memorandum of understanding with the State of Delaware for use after November 30, 2025, and that the Applicant obtain all necessary State and agency approvals.

Motion by Dr. Carson, seconded by Dr. Hitchens, carried that **the variances be approved with conditions for the reasons stated**. Motion carried 3-1.

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

ADDITIONAL BUSINESS

There was no additional business.

Meeting adjourned at 8:30 p.m.