

MINUTES OF JULY 7, 2025

The regular meeting of the Sussex County Board of Adjustment was held on Monday, July 7, 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 Temporary Chairman Mr. John Williamson presiding. The Board members present were, Dr. Kevin Carson and Mr. Shawn Lovenguth. 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 3 – 0.

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

ADDITIONAL BUSINESS

Annual Reorganization

Ms. Norwood opened nominations for Board Chairman.

Ms. Norwood called for nominations for Chair.

Dr. Carson nominated Mr. Williamson for Chair, seconded by Mr. Lovenguth.

There were no other nominations.

Ms. Norwood closed the nominations.

The vote was 3-0 in favor.

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

Ms. Norwood called for nominations for Vice Chair.

Dr. Carson nominated Mr. Lovenguth as Vice-Chair, seconded by Mr. Williamson.

There were no other nominations.

Ms. Norwood closed the nominations.

The vote was 3-0 in favor.

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

Mr. Williamson called for nominations for Board Secretary.

Mr. Williamson nominated the Director of Planning & Zoning, Assistant Director of Planning and Zoning, or his/her designee as Board secretary, seconded by Dr. Carson.

There were no other nominations.

The vote was 3-0 in favor.

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

OLD BUSINESS

Case No. 13064 – State of Delaware; Division of Fish & Wildlife seek a special use exception for a rifle and pistol range. (Section 115-23(A), 115-25, and 115-210 of the Sussex County Zoning Code). The property is located on the east side of Hunters Cove Road approximately 683 ft. south of Owens Road. 911 Address: 12613 Hunters Cove Road, Greenwood. Zoning District: AR-1. Tax Map: 430-9.00-19.00

Ms. Norwood presented the case.

Mr. Sharp stated that the case was left open at the May 5, 2025, meeting as the Applicant had to reschedule but there were members of the public in attendance that were allowed to speak; that the Board heard the testimony of those present at the last meeting and left the record open so the Applicant could present their case and anyone from the public could still speak on this case; and that there are no restrictions as to what can be introduced into the record at tonight's meeting.

Mr. Eric Moran, Construction Manager for DNREC Fish and Wildlife, was sworn in to give testimony about the Application.

Mr. Patrick Emory, Director of Fish and Wildlife for the State of Delaware, was sworn in to give testimony about the Application.

Mr. Matthew Ferrer, Deputy Attorney General representing DNREC, was sworn in to give testimony about the Application.

Mr. Craig Rhodes, Program Administrator with the Division of Fish and Wildlife, was sworn in to give testimony about the Application.

Mr. Moran testified that the proposal is for a pistol and rifle range at the Owens Station Sporting Club; that the current area is just an open field, a parking area, and a small Natural Resources Police building; that the building is currently under a permit to be renovated into the new hunters education building; that the proposed range went through the special use exception process in 2019 to construct the rifle range with the condition that the Applicant would construct a berm or fencing along the southeast side of the property to insulate the range from the neighbors; that, due to COVID-19, the range was never constructed and the time period for that approval expired, which brings them back to this hearing; that some ideas have been provided from other rifle ranges / berms to show the concept that the Applicant is proposing but no final designs have been decided on because the Applicant did not want to pay for them until this application was approved; that the Applicant did some research on the decibels and sound produced from other ranges that have been constructed recently to give an idea as to what this range would be similar to if approved; that the range will be baffled and bermed; and that the site has been used for clay shooting.

Mr. Emory testified that the Applicant had a special use exception granted five (5) years ago and they did not realize that they were not an automatic renewal and that this use would need to be presented to the Board again.

Mr. Sharp stated that shooting ranges can be granted as temporary special use exceptions up to five (5) years and some special use exceptions are done that way to see if there is any issues that have been created for neighbors; that there is a requirement that the special use exception will not adversely affect the uses of neighboring or adjacent properties; and that, during the prior hearing, there were at least three (3) individuals that testified in opposition to this Application, with five (5) individuals who were present in opposition.

Mr. Emory testified that the Applicant's understanding was that most of the opposition was in reference to the noise of the rifle range; that the Applicant does not have a design to present to assure the opposition of the noise control as the State does not want to spend the money associated with that until the special use exception has been approved; that, currently, there is sporting clay shooting going on on the property and this range would have the same hours of operations as the clay shooting operation; that the range will be closed to the public on Mondays; that the smallest caliber

size being shot would most likely be a .22 and the largest caliber has not been determined yet; that the range will measure 100 yards; that the Applicant purchased the property 12 years ago; that the site will house a hunters education building; that there are no such buildings in Sussex County; that they have seen fewer hunting licenses and more interest in sport shooting; that the range will most likely have eight (8) shooters at one time with a managing company overseeing the operation; that Charles Morton has been managing the Owen Station project for the State and he would continue to do so with the development of this gun range; that there is a poultry house on adjacent lands; that the Applicant has not operated a pistol / rifle range in 5 years; that the Applicant did not listen to the audio of the prior hearing; that, if approved, the Applicant will build the facility and then have a bidding process for the management of the facility; that, to their knowledge, there is only the clay sporting shooting going on but there have been statements from the neighbors of possibly some rifle shooting taking place; that they cannot confirm or deny that statement as the Applicant has not been there to see for themselves; and that the range will be open to the public and will operate from Tuesday through Sunday from 9:00 am to 6:00 pm and will be closed on Mondays to allow for range clean-up.

Mr. Ferrar testified that the permit for the prior special use exception was not valid after 2 years and has expired.

Mr. Moran testified that the rifle range would be constructed with a three-sided building to contain some of the noise with a block building behind the lanes; that the location of the range is as far from the property as it can be placed; that the shooters will shoot at targets in a parallel direction to the side property line; and that he does not know how tall the facility will be.

Mr. Rhodes testified that shooters could shoot downward or the Applicant could construct a 15 foot tall berm; that the berm has not yet been designed; that there is little chance bullets could escape the range; and that a berm of 10 to 20 feet tall is projected.

Mr. Sharp requested a hand count to be completed for the number of people present in opposition to this application; and that there were five members of the audience who were in opposition.

Mr. Patrick Huerta was sworn in to give testimony in opposition to the Application.

Mr. Huerta testified that he lives within walking distance of the site; that the noise of a shooting range is his concern because the decibel reading of a gunshot is for one shot at a time and a range is going to have multiple shots be fired from multiple shooters making that more than the listed decibels that the Applicant is proposing; that, if the shooters are shooting downward, he has concerns about the impact on waterways; that there are poultry houses in the neighborhood; and that semi-automatic firearms have a different and louder pitch than shotguns.

Mr. Sheldon Swartzentruber was sworn in to give testimony in opposition to the Application.

Mr. Swartzentruber testified that his property borders the north side of the property; that he has owned his property since 1995; that he is an avid shooter and hunter; that the noise was bearable at first, but now that they have expanded the hours of operation it is hard for the neighbors to enjoy their own property on the weekends; that, with the increase of the shooting range, the traffic will become more of a nuisance at the intersection; that a proposal would be to fully enclose the shooting range into a building to alleviate the amount of noise that all of the neighbors are complaining about; that, when trying to enjoy his property, it has become difficult to have any peace; that friends who visit him comment on the noise and asks how he can stand it; and that they have adjusted to the noise from the clay shooting but, with the addition of pistols and rifles to this range, it will become unpleasant to utilize their own property.

Mr. David Glover was sworn in to give testimony in opposition to the Application.

Mr. Glover testified that there is another gun range approximately five (5) miles away and they can hear that when it is being used; that, with this range being approved, there would be no peace

as they are only about 600-1,000 feet away from the proposed location; that it used to be only open during the week and the weekends were more peaceful but now they are busiest on the weekends and it makes it difficult to enjoy their own yard.

Mr. Brent Schrock was sworn in to give testimony in opposition to the Application.

Mr. Schrock testified that he wanted to clarify that the shooting of pistols or rifles that they have heard does not occur on regular basis so it is not like they are illegally running a range but, rather, that someone is accessing the property and just shooting; that his residence sits about 200-300 yards from the proposed range and his chicken houses are right along that property line; and that this use will not only be miserable for himself but unpleasant for all of his chickens nearby.

Mr. David Wilson was sworn in to give testimony about the Application.

Mr. Wilson testified that he was not in opposition to the Application but, rather, was hoping that the State and the neighbors could come to an agreement about the need and use of a rifle range; that he is a State Legislator and wants to show support for both the State and his constituents.

Mr. Emory testified that he does not want to build a facility which will negatively impact the neighborhood; that he wants a concentrated area in the State for ranges; that people who move the area have knowledge of the range's existence; that there are other ranges near residences; that the range will be built to best standards and to keep noise to a minimum; that the Applicant will shut down the existing rifle / pistol range if not properly permitted; that the berm has not been constructed; that he not sure of the demand; and that Ducks Unlimited shoots at Owens Station and has 200-250 shooters every 3 months for those events.

Mr. Huerta testified that semi-automatic firearms are much different than shotguns; that the neighbors got used to shotguns; that shooting 100 yards away with a .50 caliber firearm makes a loud noise.

Dr. Carson moved to deny the application for Case No. 13064 for the requested special use exception, pending final written decision, because the use will substantially adversely affect the uses of adjacent and neighboring properties.

Motion by Dr. Carson, seconded by Mr. Lovenguth, carried that the **special use exception be denied for the reasons stated.** Motion carried 3 - 0.

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

PUBLIC HEARINGS

Case No. 13087 – Sea Air Village seeks variances from the separation distance requirements for proposed structures (Section 115-25 and 115-172 of the Sussex County Zoning Code). The property is located southeast of Atlantic Avenue within the Sea Air Village Manufactured Home Park. 911 Address: 20059 Delaware Avenue, Lot J65, Rehoboth Beach. Zoning District: AR-1. Tax Parcel: 334-13.00-310.00-3209

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received zero letters of support, zero letters of opposition, and forty-one (41) mail returns.

The Applicant is requesting the following variances:

1. 5.6 ft. from the 20 ft. separation distance requirement for a proposed manufactured home from the steps on Lot J-67;
2. 3.3 ft. from the 20 ft. separation distance requirement for a proposed manufactured home from the dwelling and deck on Lot J-67;
3. 6.2 ft. from the 20 ft. separation distance requirement for a proposed HVAC from the dwelling on Lot J-67;

4. 11 ft. from the 20 ft. separation distance requirement for a proposed manufactured home from the shed on Lot A-80;
5. 3.2 ft. from the 10 ft. separation distance requirement for a proposed shed from the shed on Lot J-63; and
6. 7.9 ft. from the 20 ft. separation distance requirement for a proposed landing from the HVAC on Lot J-63.

Ms. Stephanie Pritchett and Ms. Brittany Stou were sworn in to give testimony about the Application.

Ms. Pritchett testified that the uniqueness of the lot is what brought them to the meeting; that the lot is very narrow and it creates a challenge in placing a new mobile home; that the lot was originally laid out in the 1950s and 1960s which was prior to the County having a separation distance requirement; that the lot size is small in comparison to the modern manufactured home and the Applicant chose the smallest model in order to accommodate the restrictions that are placed on this lot; that the new home placement will reduce the width of the structure as the prior unit had an attached addition and it will allow the stairs and shed to be moved within the current allowable setbacks; that the narrow width of the lot and the previous build out of the surrounding adjacent lots makes it difficult to place a new manufactured home on the property consistent with others in the neighborhood while maintaining compliance with the Sussex County Zoning Code; that, due to the uniqueness of the property, the property cannot be developed in strict conformity with the Code; that the shed is a standard shed; that the variances are necessary to enable reasonable use of the property; that, without the variances, the lot cannot be developed; that the previous home could not be reasonably repaired without significant expense; that the exceptional practical difficulty was not created by the Applicant; that the property is quite narrow which greatly limits the buildable area thereof; that the neighboring lots are also narrow causing development of nearby lots to be nearer to lot lines / neighboring homes; that the neighboring unit encroaches the setback and the HVAC on that home crosses the lot line by a few feet; that it appears impossible for a home to be placed on the property without violating the separation distance requirements; that the replacement home will correct some of the previous separation distance issues by increasing the distance between units; that the exceptional practical difficulty was created by the unique conditions of the property and the development of adjacent lots; that the variances will not alter the essential character of the neighborhood nor substantially or permanently impair the appropriate use or development of adjacent property nor be detrimental to the public welfare; that the variances will add to the conformity of the community; that the home will add to the value and characteristics of the community and neighborhood; that the variances are the minimum variances necessary to afford relief and represent the least modifications of the regulations at issue; and that the home is the narrowest model currently available, reduces the width of the structures on the property, and minimizes the need for a variance.

Ms. Stou testified that, when the Applicant orders new homes, the Applicant makes sure that the homes have reverse aisles so that all of the doors are on the same side so that there is no need for another variance for steps and landings and it allows for the home to be placed closer to one side allowing for more room within the lot to utilize; and that 15 feet is the narrowest home the Applicant could find.

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. 13087 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique physical conditions;
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 for the reasons stated**. Motion carried 3 - 0.

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

Case No. 13088 – Sea Air Village seeks variances from the separation distance requirements for proposed structures (Section 115-25 and 115-172 of the Sussex County Zoning Code). The property is located southeast of Atlantic Avenue within the Sea Air Village Manufactured Home Park. 911 Address: 20057 Delaware Avenue, Lot F89, Rehoboth Beach. Zoning District: AR-1. Tax Parcel: 334-13.00-310.00-3163

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received zero letters of support, zero letters of opposition, and forty-one (41) mail returns.

The Applicant is requesting the following variance:

1. 6.6 ft. from the 20 ft. separation requirement for a proposed HVAC to the landing on Lot F-91.

Ms. Stephanie Pritchett and Ms. Brittany Stou, who were previously sworn in, were present to present the Application.

Ms. Pritchett testified that the uniqueness of the lot is what brought them to the meeting; that the lot is very narrow and it creates a challenge in placing a new mobile home; that the lot was originally laid out in the 1950s and 1960s which was prior to the County having a separation distance requirement; that the lot size is small in comparison to the modern manufactured home and the Applicant chose the smallest model in order to accommodate the restrictions that are placed on this lot; that the new home placement will allow for an offset correction at the rear of the home where the home overstepped the 5 foot offset mark and at the lot boundary with Lot F87 where the previous shed encroached onto Lot F87; that the proposal will also allow the driveway to be moved back onto Lot F89 whereas it currently encroaches onto Lot F87; that the narrow width of the lot and the previous build out of the surrounding adjacent lots makes it difficult to place a new manufactured home on the property consistent with others in the neighborhood while maintaining compliance with the Sussex County Zoning Code; that, due to the uniqueness of the property, the property cannot be developed in strict conformity with the Code; that the shed is a standard shed; that the variances are necessary to enable reasonable use of the property; that, without the variances, the lot cannot be developed; that the exceptional practical difficulty was not created by the Applicant; that the property is quite narrow which greatly limits the buildable area thereof; that the neighboring lots are also narrow causing development of nearby lots to be nearer to lot lines / neighboring homes; that neighboring homes encroach by a few feet of the lot line boundaries thereby creating a cascading effect; that it appears impossible for a home to be placed on the property without violating the separation distance requirements; that the replacement home will correct some of the previous separation distance issues by increasing the distance between units; that the exceptional practical difficulty was created by the unique conditions of the property and the development of adjacent lots; that the variances will not alter the essential character of the neighborhood nor substantially or permanently impair the appropriate use or development of adjacent property nor be detrimental to the public welfare; that the variance will add to the conformity of the community; that the home will add to the value and characteristics of the community and neighborhood; that the variance is the minimum variance necessary to afford relief and represents the least modification of the regulation at issue; that the home is the narrowest model currently available, reduces the width of the structures on the property, and minimizes the need for a variance.

Ms. Stou testified that this home is sixteen (16) feet wide versus the fifteen foot wide model because of the interior floor plan is different and it comes down to the thickness of the walls and materials that the builder uses on this model; that the previous existing home had an addition on it that actually made it closer to Lot F87 than this will once placed on the lot; and that, when the Applicant orders new homes, the Applicant makes sure that the home have reverse aisles so that all of the doors are on the same side so that there is no need for another variance for steps and landings and it allows for the home to be placed closer to one side allowing for more room within the lot to utilize.

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. 13088 for the requested variance, pending final written decision, for the following reasons:

1. The property has unique physical conditions;
2. The variance will not alter the essential character of the neighborhood; and
3. The variance sought is 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 3 - 0.

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

Case No. 13089 – Sea Air Village seeks variances from the separation distance requirements for proposed structures (Section 115-25 and 115-172 of the Sussex County Zoning Code). The property is located southeast of Atlantic Avenue within the Sea Air Village Manufactured Home Park. 911 Address: 36270 Edge Avenue, Lot N51, Rehoboth Beach. Zoning District: AR-1. Tax Parcel: 334-13.00-310.00-3228

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received zero letters of support, zero letters of opposition, and forty-one (41) mail returns.

The Applicant is requesting the following variances:

1. 4.6 ft. from the 20 ft. separation distance requirement for a proposed manufactured home from the landing on Lot N-53;
2. 1.6 ft. from the 20 ft. separation distance requirement for a proposed HVAC from the manufactured home on Lot N-53;
3. 7.3 ft. from the 20 ft. separation distance requirement for a proposed manufactured home from the manufactured home on Lot M-52;
4. 5.3 ft. from the 20 ft. separation distance requirement for a proposed shed from the manufactured home on Lot M-52;
5. 10.5 ft. from the 20 ft. separation distance requirement for a proposed shed from the manufactured home on Lot N-49;
6. 0.8 ft. from the 20 ft. separation distance requirement for a proposed manufactured home from the manufactured home on Lot N-49;
7. 7.8 ft. from the 20 ft. separation distance requirement for a proposed landing from the landing on Lot N-49; and
8. 6.0 ft. from the 20 ft. separation distance requirement for a proposed landing from the HVAC on Lot N-49.

Ms. Stephanie Pritchett and Ms. Brittany Stou, who were previously sworn in, were present to present the Application.

Ms. Pritchett testified that the uniqueness of the lot is what brought them to the meeting; that the lot is very narrow and it creates a challenge in placing a new mobile home; that the lot was originally laid out in the 1950s and 1960s which was prior to the County having a separation distance requirement; that the lot size is small in comparison to the modern manufactured home and the Applicant chose the smallest model in order to accommodate the restrictions that are placed on this lot; that the new home placement will allow for an offset correction at the rear of the home where the home overstepped the 5 foot offset mark and at the lot boundary with Lot N53 where the previous home encroached into the setback; that the narrow width of the lot and the previous build out of the surrounding adjacent lots makes it difficult to place a new manufactured home on the property consistent with others in the neighborhood while maintaining compliance with the Sussex County

Zoning Code; that, due to the uniqueness of the property, the property cannot be developed in strict conformity with the Code; that the shed is a standard shed; that the variances are necessary to enable reasonable use of the property; that, without the variances, the lot cannot be developed; that the exceptional practical difficulty was not created by the Applicant; that the property is quite narrow which greatly limits the buildable area thereof; that the neighboring lots are also narrow causing development of nearby lots to be nearer to lot lines / neighboring homes; that neighboring homes encroach by a few feet of the lot line boundaries thereby creating a cascading effect; that it appears impossible for a home to be placed on the property without violating the separation distance requirements; that the replacement home will correct some of the previous separation distance issues by increasing the distance between units; that the exceptional practical difficulty was created by the unique conditions of the property and the development of adjacent lots; that the variances will not alter the essential character of the neighborhood nor substantially or permanently impair the appropriate use or development of adjacent property nor be detrimental to the public welfare; that the variance will add to the conformity of the community; that the home will add to the value and characteristics of the community and neighborhood; that the prior home on the lot had been abandoned without maintenance for years; that the variances are the minimum variances necessary to afford relief and represent the least modifications of the regulations at issue; that the home is the narrowest model currently available, reduces the width of the structures on the property, and minimizes the need for a variance.

Ms. Stou testified that this home is sixteen (16) feet wide versus the fifteen foot wide model because of the interior floor plan is different and it comes down to the thickness of the walls and materials that the builder uses on this model; and that the new home will be less non-conforming than the prior home.

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. 13089 for the requested variances, pending final written decision, for the following reasons:

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

Motion by Mr. Lovenguth, seconded by Dr. Carson, carried that **the variances be approved for the reasons stated**. Motion carried 3 - 0.

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

Case No. 13091 – Brian Quier seeks a variance from the rear yard setback requirements for a proposed structure. (Sections 115-25, 115-183 and 115-185 of the Sussex County Zoning Code). The property is located on the west side of River Bend Drive and the east Side of Koszy Lane approximately 100 ft. to the north of Thorogoods Road. 911 Address: 105 River Bend Drive, Dagsboro. Zoning District: AR-1. Tax Map: 233-5.00-41.01

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

The Applicant is requesting the following variance:

1. 15 ft. from the 20 ft. rear yard setback for a proposed structure.

Mr. Sharp stated for the record that an application had come before the Board of Adjustment and was denied 4-0 for a variances for 10 ft. from the 15 ft. side yard setback and 15 ft. from the 20 ft. rear yard setback for a proposed pole building; that, in order to move forward with this current

application, the Applicant will need to demonstrate that there is a substantial change in the conditions which has occurred or other conditions materially affecting the merits of the request; and that there needs to be a substantial change in property or change in the plans.

Mr. Brian Quier was sworn in to give testimony about his application.

Mr. Quier testified that, in his previous denied application, the suggestion was made to move the pole building over to the right by 10 ft. and then there would be no need for a variance on the side yard setback and only a rear yard setback variance; and that this suggestion was done and he has made substantial changes to the site plan only requiring one (1) variance rather than the two (2) variances that were originally proposed.

Mr. Sharp stated that, in order to proceed with the hearing on the merits of the Application, the Board would need to approve a motion that there has been substantial changes made to the property or plans; and that, if the Board did not make such a finding, the hearing on the Application could not proceed.

Motion by Dr. Carson, seconded by Mr. Lovenguth, carried that a substantial change has been made in the Applicant's plans since the building has been moved thereby allowing the Board to consider the Application. Motion carried 3-0.

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

Mr. Quier testified that this is a second application submission for a variance to place a pole building within the rear yard setback; that the building will measure 32 feet by 48 feet; that he measured to confirm that the structure will fit where he has proposed it to be located; that the new proposal is to place it 15 ft. from the 20 ft. rear yard property line; that this is needed because there is no other placement for his pole building as there is a 400 gallon propane tank buried on the other side of the house, and a septic drain field that extends across the top to the north side of the property and these systems cut off access through the driveway to drive a vehicle on; that, without the five (5) foot rear set back, the location is too shallow and it would cause the building to block access to the current attached garage and take away the driveway and parking maneuverability; that the five (5) ft. rear set back will allow the front of the pole barn to align with the edge of the current driveway; that his house sits back a few feet farther from the road than some of the other houses in the neighborhood thereby making his backyard smaller; that he purchased the property in 2024 with the existing structures located thereon; that this is not an exceptional practical difficulty that has been created by the Applicant as the home sits farther back than the other homes in the neighborhood; that the placement of the building would align with the rear of the neighbors existing pole building; that the proposed building would enhance the property and neighborhood as the design has added features to enhance the beauty of the structure; that the building will allow for storage of several pieces of equipment in a neat and orderly way; that this will reduce the items currently in the yard covered with tarps; that the proposed building is the smallest size that can be built to accommodate the equipment and vehicles that will be stored; that the front of the building will align with the current driveway and will not block access to the attached garage; that he plans to install an HVAC in the pole building if possible and that the HVAC will be located to the side of the building; that there is a 28 foot gap from the edge of Koszy Lane and the rear property line; that there is 86 feet from the neighboring dwelling on the other side of Koszy Lane; that the neighbor's pole building measures 30 feet by 20 feet; that the boat is parked on the concrete pad; that he has a zero turn lawn mower; and that he preferred a 40 foot by 60 foot pole building.

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. 13091 for the requested variance, pending final written decision, for the following reasons:

1. The variance will not alter the essential character of the neighborhood; and
2. The variance sought is 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 3 - 0.

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

Case No. 13092 – Barbara Faculjak seeks variances from the front and corner front yard setback for existing structures and from the maximum fence height within the front yard and corner front yard setback requirement for an existing structure (Section 115-34, 115-182, 115-184 and 115-185 of the Sussex County Zoning Code). The property is located on the east side of Rogers Avenue and south side of Coastal Highway. 911 Address: 20961 Rogers Avenue, Rehoboth Beach. Zoning District: MR. Tax Parcel: 334-20.13-51.00

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

The Applicant is requesting the following variances:

1. 2.5 ft. from the 3.5 ft. maximum height requirement on a front and corner front yard setback for an existing structure;
2. 17.9 ft. from the 30 ft. front yard setback for an existing structure;
3. 16 ft. from the 30 ft. front yard setback for an existing structure; and
4. 4.4 ft. from the 15 ft. corner front setback for an existing structure.

Ms. Norwood noted that Rogers Avenue is considered the front yard and Route 1 is considered the corner front yard.

Ms. Barbara Faculjak was sworn in to give testimony about her application.

Ms. Faculjak testified that she was the owner of 2961 Rogers Avenue and sold the property in May 2025 and the new owners are requesting that this variance is obtained prior to the finalization of the sale; that the owners want to retain the 6 ft. tall fence on the front and corner front property; that, in March 2023, she purchased the property and chose to improve the home so that it could be utilized as a rental; that part of the improvements made to the home included the installation of a privacy fence all along the property lines; that the fence keeps renters, kids, and pets safe from the Route One traffic and decreases the trash and the noise from Dewey Beach foot traffic; that the fence is consistent with the neighborhood and all of the other homes along the Route One corridor; that the fence is a standard six (6) foot wooden fence closing the yard; that the fence is consistent with others on the adjoining blocks; that the style, height, and placement cannot otherwise be developed with the close proximity to Route One and Dewey foot traffic; that there was trash and people approaching into the rear and side yards which limited renter and occupant privacy; that the need for the variance was not created by the Applicant and the sale of the property was contingent on the variance being submitted for the fence setback to ensure safety and visual blockages and privacy; that the fence is consistent with several other fences on properties along both Route One and Rogers Avenue; that the fence is visually consistent and adds positively to the optics of the neighborhood; that there are six (6) foot fences or higher in similar properties just north and south on the Route One corridor; that the fence is really critical to providing privacy and protection of the property and lot; that traffic from Route One comes from the left and the house is on the right so there is no visibility concerns with the fence for vehicles or pedestrians; that there have been no complaints about the structures; that the house was placed on the property in 1984; that there have been no changes to the location of the house but a deck was added; that she arranged for the installation of the fence and the issue was discovered at closing; that the fence is set back 30 feet from the intersection; that there are 6-8 feet tall fences along Route One; that she asked the builder about the fence permit and the builder thought it was a temporary fence so no permit was need; that she experienced issues with trespassers prior to the fence installation; that there is a sidewalk between the property and Route One; and that the property is served by public water and sewer.

Mr. Sharp stated for the record that the dwelling, the deck and the steps have some variances that were needed as well, because there no evidence in the record that those structures have been properly permitted; that since the Applicant has purchased the property has there been any location changes of the dwelling or the deck and steps?

Ms. Faculjak testified that the building itself that was moved there, along with the one next door in 1984 and has been there since then; that not much had been done to keep it up since then and nothing has been moved; that it was not until the sale of this property was happening did it come about that the fence was not permitted and was not meeting the code; that the builder who put the fence up never applied for the permit as he thought the fence was only temporary and when a larger renovation would be done they would put up a “permanent” one and have all the permits at that time.

Ms. Kelly Sullivan was sworn in to give testimony in favor of the Application.

Ms. Sullivan testified that she purchased the property from the Applicant on May 23, 2025, and wanted to keep the fence for several reasons; that there is a lot intoxicated individuals coming from Dewey late at night; that, even though there is a six (6) foot fence, she picks up beer cans and pizza plates over the fence in yard; that they also have two (2) dogs that are in the yard and the fence protects not only the dogs but the people walking by; and that the fence provides some privacy from traffic.

The Board found that one (1) person 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. 13092 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique safety conditions;
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 for the reasons stated**. Motion carried 3 - 0.

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

Meeting adjourned at 8:15 p.m.