

MINUTES OF JUNE 15, 2026

The regular meeting of the Sussex County Board of Adjustment was held on Monday, June 15, 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. Nathan Kingree Mr. Chuck McClure, and Mr. John Willimason. Also, in attendance were Mr. Jamie Sharp, Esquire – Assistant County Attorney, and staff members Ms. Jennifer Norwood – Planning and Zoning Manager, and Ms. Amy Hollis – Recording Secretary.

The Pledge of Allegiance was led by Mr. Williamson.

Motion by Dr. Hitchens, seconded by Mr. Lovenguth and carried unanimously to approve the agenda. 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

Motion by Mr. Lovenguth, seconded by Mr. McClure and carried unanimously to approve the Minutes for the April 27, 2026, meeting. 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

Motion by Mr. Kingree, seconded by Mr. Lovenguth and carried to approve the Findings of Facts for the April 27, 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

PUBLIC HEARINGS

Case No. 13200 – S J Growers, LLC seeks a special use exception to place a telecommunications tower and a variance from the maximum height requirement for a proposed structure (Section 115-194.2 and 115-210 of the Sussex County Zoning Code). The property is located to the east side of Millsboro Highway (SCR 30) and to the north side of Bald Branch Road. 911 Address: 22311 Bald Branch Road, Millsboro. Zoning District: AR-1. Tax Parcel: 333-7.00-23.00.

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

The Applicant is requesting a special use exception for a telecommunications tower and the following variance:

- 49 feet variance from the 150 feet maximum height requirement for a telecommunications tower.

John Tracey, Esquire, presented the Application on behalf of the Applicant.

Mr. Tracey stated that he is with the law firm of Young Conway Stargatt and Taylor and is representing the Applicant; that the Applicant is seeking a special use exception and a variance to build a 199 foot tall telecommunications monopole with the included lightning rod; that the property is just around 62 acres in size and is bisected by Route 26; that the property is in the AR-1 zoning district and is surrounded mostly by farms; that the location of the facility will be near the tree line on the right hand side of Route 26; that there are forested wetlands in that area but this facility will not affect those areas; that the Applicant will respect all buffer requirements; that the tower will meet all of the codes for lighting and setbacks and will be enclosed by a fence as required; that T-Mobile is the principal tenant for this tower and T-Mobile is trying to expand its network to meet the needs of everyday people in this area; that T-Mobile holds an FCC license and that, as part of that license, T-Mobile is required to provide reliable cell phone coverage; that there is a high demand for wireless services as most people are a wireless-only household; that 80% of 911 calls across the country originate from wireless devices and the need to fill those coverage gaps is there; that landlines are disappearing; that streaming adds to demands on the wireless systems; that, in order to fill those coverage gaps, the carriers need to find a property and a landlord willing to house a facility and then going through the process of getting that approved; that there is a gap in coverage that runs along the Route 26 corridor and the Applicant is looking to fill that gap in coverage.

Andrew Petersohn was sworn in to give testimony for this application.

Mr. Petersohn testified that there was a map on display of the Gumboro area showing the area of Routes 24 and 26; that the T-Mobile existing on air sites that are providing service areas are indicated on this map; that the areas of commercial coverage, residential coverage, in-car, and street coverage threshold are shown on the map; that there is a significant gap in coverage that T-Mobile needs to address as there is an area stretching 1-1.5 miles where the coverage is poor; that, during the analysis of planning a new tower, the Applicant tries to find locations that have no other facilities within a two mile radius; that there is a facility 1.2 miles from this location, near the Maryland border but that facility primarily services coverage areas further south and it will still leave this large area to the north lacking coverage; that, from a structural perspective, the facility near the Maryland border is not structurally sound; that utilizing that facility will provide overly redundant coverage to the south and leave the north still lacking; that, for those reasons, T-Mobile cannot use that facility to establish coverage; and that, with the proposed facility, there will be a strong in building coverage to the vast majority of that gap in T-Mobile's coverage.

Mr. Tracey asked Mr. Petersohn to explain the FCC standards and how that will be calculated and affect the public if this is approved.

Mr. Petersohn testified that he completed an analysis of the anticipated electromagnetic emissions from the facility and those emissions would only be 0.04% of the FCC limits at maximum output with exaggerating factors at the base of the tower, which is well below the FCC standards in all public areas; that the tower will be lit in accordance with Sussex County standards; and that the FAA does not require the tower be lit.

Mr. Tracey asked Mr. Petersohn to explain the need for the variance to expand the 21 megahertz, which includes the height increase.

Mr. Petersohn testified that some providers have lower bands in the 600-850 megahertz range and they are not as encumbered by the propagation characteristics of the mid-band; that, when a tower gets above a gigahertz, to the 2100 megahertz and 2500 megahertz ranges where T-Mobile has the vast majority of their spectrum, it is pure physics of how radio waves propagate; that the higher frequencies do not travel as far as the lower frequencies but, for T-Mobile's network to operate, because that is where most of their resources are, they need to have that coverage footprint at 2100 megahertz and above; that, with the proposed reliable coverage at 2100 megahertz, the Applicant was able to make this work and it does not leave gaps to the north or south of the site; that, if the Applicant were to shorten the tower, naturally that coverage footprint will shrink and then the Applicant will be opening up gaps to the north or south; that it is always in the best interest of the provider to design with the absolute minimum height necessary to meet their coverage needs; that the Applicant does not want to overbuild and then provide that overly redundant coverage because that is not great for the network but the flip side is the Applicant does not want to under build and then leave gaps to the north or south or anywhere in the areas that are being targeted for coverage improvement, which is why the Applicant needs the additional height here.

Mr. Tracey stated that the lighting on the tower will be designed to accommodate at least three other co-locators on this tower; that the tower will have warning lights every 50 feet as required by code; that the compound that will hold the facility is a 60' by 60' compound consisting of roughly 3,600 square feet; that the facility will be tucked towards the trees on the upper right-hand side of the property and will have access to the gravel drive from Route 26; that, once constructed, the tower will just sit there and do nothing other than provide coverage; that the facility will not tax county resources; that there is one trip in and out about every six weeks for diagnostics and things of that nature; that the tower does not any impact on traffic; that the Applicant also seeks the variance to increase the height of the facility to 199 feet; that this height is critical to the Application as reducing the height will not only impact the effectiveness of this particular tower but it will also open up the door to potentially more towers in this area to fill the gaps; that the Applicant does not build 150 feet or 200 foot towers just because it is filling in a puzzle piece; that building it taller does not accomplish anything if you do not need to go to that height; that the Applicant is trying to find the height that bridges the gap and provides the coverage without going too high or also without going too low; that this height is being driven by the needs generated by the FCC and the bandwidth that T-Mobile is licensed on; that there are two types of relief the Applicant is looking for here; that the special use

exception standard is that the impact or the approval of this facility will not substantially affect adversely the uses on adjacent or neighboring property; that, in this particular instance, there is a gap in coverage that needs to be addressed and it also has capacity concerns in this particular area; that the Applicant has ruled out the only tall structure that was in two miles of this location based both on its structural capability to hold the facility as well as the redundant coverage that it would provide; that there is no adverse on impact adjacent properties; that the tower creates no noise or noxious odors or create a burden on county or municipal services, sewer, water, schools, things of that nature; that the tower does not generate any traffic; that people do not always love these things but people love their devices and these towers are the way to make them work; that there has been talk about other types of technology that may be able to take the place of these things but he does not think there is any of that on the horizon but the County Code has already anticipated that; that, if in some reason in the future, there is no need for the tower, it needs to be removed within six months of it going offline; that, with regard to the variance that the Applicant seeks, it is kind of an interesting one but he thinks some of the Board has seen him ask for this variance before at different heights; that the request is for an area variance so it is rooted in the *Kwik-Check* standard and the aspects of the state code and it is a five-part standard; that the uniqueness of the property; that the variance is not tied directly to the property; that cell tower applications, as the Board is aware, are somewhat unique in the context of land use approvals because they generally coexist with other uses on the property, in this instance, agriculture; that, because they take up so little space on the property, towers a great companion use or accessory use and they don't interfere with the primary use; that, because of the nature of these telecommunication facilities, the Applicant does not have the luxury to go wherever you see in a particular picture to move it because you need to find first a property that is in the area where there is an actual deficiency in service and then, secondly, you need to find a willing landlord who wants to host the particular facility; that it is permitted on the property but, in this instance, it requires a certain height to function at its appropriate and designed level; that this is a height variance and it is not tied specifically to the property but more towards the radio frequency needs to meet T-Mobile's FCC requirement to provide reliable service in this particular area of Sussex County; that a tower of this height is necessary to achieve that and, as Mr. Petersohn's report notes on page 3, the proposed antenna height is the absolute minimum acceptable to achieve a high percentage of the site's design goals; that any decrease in the height of the proposed facility will significantly diminish the effectiveness of the proposed site; that the exceptional practical difficulty is not created by the Applicant; that this request has not been created by the Applicant but instead by the FCC requirements and the demand for service in this area; that T-Mobile provides a service and there are many consumers, both permanently located in this area, working in this area, and traveling through this area that put on the demands and service that require there to be a new facility in this area; that, with the need for reliable service, the demands in the area, and the location of the property within the designated search area, those 3 factors combined for the fact that this needs to go here; that the minimum variance, as Mr. Petersohn talked about, the Applicant did not look to build any higher than the Applicant has to; that it is more expensive if you go higher but the Applicant is also trying to make the puzzle work; that, to note, the 150-foot number has been in a code, since the code was adopted, and he is not sure that there was any particular science behind that 150-foot number; that he can tell you that it does work in a lot of occasions but there are times when it does not work; that this is one

of those, it is really driven by the spectrum by which T-Mobile broadcasts; that the variance will not alter the essential character; that the tower is a permitted use with special use permits and the tower is largely an agricultural use; that the Applicant is locating it adjacent to the trees at the top there but it is a low intensity use that fits in well with other low intensity uses while also providing service in a heavily traveled corridor; that it cannot otherwise be developed: that it can be developed but it cannot be developed in a manner that actually functions; that, if you want to have reliable service, if you want to have FCC compliant service, the height that the Applicant seeks in this instance achieves that and it cannot just be moved anywhere to try to lower that number because you need to find willing landlords within a certain area in order to make it work.

Mr. Lovenguth asked about the neighbors and if there was any opposition to this project and if there was a backup generator with an enclosure.

Mr. Tracey stated that the Applicant has not spoken to any of the neighboring property owners as there is nothing but agricultural lands around this parcel, no housing developments to knock on doors; that there is a backup generator and it will be a low level decibel and would not affect neighbors if a development was ever put in; and that the generators decibel is around the same as a residential air conditioning system.

Mr. Sharp asked about the closest towers in Maryland and their height.

Mr. Tracey stated that the closest towers are over the Maryland line and they are 199 feet in height.

Mr. Petersohn affirmed the statements made by Mr. Tracey 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. 13200 for the requested special use exception, pending final written decision, for the following reasons:

1. The proposed use will not substantially or permanently impair the appropriate use or development of adjacent property; and
2. The Applicant has demonstrated that the standards of County Code § 115-194.2 have been met.

Motion by Mr. Lovenguth, seconded by Dr. Hitchens, carried that the **special use exception 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

Mr. Lovenguth moved to approve the application for Case No. 13200 for the requested variance, pending final written decision, for the following reasons:

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

Motion by Mr. Lovenguth, seconded by 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

Case No. 13201 – Pamela & Mitchell Rentz seeks variances from the rear yard setback requirement for proposed structures (Section 115-25 and 115-183 of the Sussex County Zoning Code). The property is located to the south side of First Street. 911 Address: 37468 First Street, Rehoboth Beach. Zoning District: AR-1. Tax Map: 334-19.16-24.03.

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

The Applicants are requesting the following variance:

- 7 feet variance from the 15 feet rear yard setback requirement for a proposed screened porch and deck.

Chris Grady was sworn in to give testimony for this Application.

Mr. Grady testified that the Applicants are seeking a variance to build a deck at the rear of their home; that the home will have a screen porch on the third floor with a roof coverage and then

open deck on the second floor and an open patio on the ground floor; that the ground floor patio will come out 15' from the home and will be 26' long; that the second floor deck will come out 12' from the home and will be 26' long; that the third floor enclosed porch will come out 12' from the house and will be 17' long; that no homeowner association approval is needed; that there are neighbors with similar structures on their homes but he is unsure if any others needed a variance to do their porches and decks; that, in order to remain within the rear setback, the Applicants would only be able to have a 5' deck and that is not worth building; that there is an existing 12' concrete pad and the proposal would be constructed over that pad; that the reason for the deck to be off the top floors and not utilize the patio that is already in place is because that exit from the dwelling is off the garage and basement storage area and the Applicants want to be able to walk out of the living area and enjoy the back porch; that currently, in order to gain access to the patio, they have to go through the inside of the house, down through the basement / garage to have any exterior access; that the Applicants want to be able to entertain and have the easy access off their living area to an outside entertainment area; that he is the Applicants' contractor; that he thinks the Applicants spoke with neighbors about the proposal; that a prior owner built the house; that there are no steps proposed for the deck and porch as the access is from the house; that the screen porch off the master bedroom measures 14 feet by 12 feet; that the house consists of 4 floors; that the middle deck is 14 feet by 12 feet; that the proposed ground level deck would measure 26 feet by 12 feet; that the Applicants currently use the patio with no issue; that there are no flooding problems with the property; and that he is unaware of any current access issues to the patio.

Mr. Sharp stated that one of the standards the Applicants have to meet is the fundamental question of what is unique about this property; that there needs some unique physical characteristic for this property and the site plan indicates that the property measures 50 feet by 100 feet and, based on the tax map, it appears to be of a similar size and shape as neighboring properties; that this is a property that benefits from the small lot ordinance, which gives a reduction in the rear yard setback by 5 feet; that what is unique about this property that causes a need for the variances; that the Supreme Court has made a distinction that there is a difference between a want and a need; that, with that in mind, what is unique about this property and why is the variance needed; and is there a reason that they chose to do the third floor enclosed porch rather than just the ground floor patio and a second floor deck?

Mr. Grady testified that the enclosed porch was a request of the homeowners to have an area off their master bedroom to enjoy outdoor space.

Chris Panico was sworn in to give testimony in opposition to the Application.

Mr. Panico testified that he is representing his mother who owns the property next door to the Applicants' property identified as Parcel 24.01; that he is a military veteran and is an electrical trades instructor; that he helped renovate his parents' house; that all houses in the area were one-story homes at one point; that the Applicants' home is a 4 story home; that this elevated structure will look directly down into his family's private backyard and strips away the privacy of their outdoor shower space;

that this is a highly sensitive area where his family expects complete privacy; that a variance should not be granted when it forces neighbors to forfeit the reasonable use and privacy of their own yards; that a third story elevated porch acts as a megaphone for sound by placing an outdoor gathering space high in the air and closer to the property lines than zoning allows; that the proposed deck and porch will drastically increase noise pollution and this sound will travel directly into the surrounding area and properties; that the proposed porch and deck will severely disrupt the quiet enjoyment of their homes, creating a negative impact that the standard setback rules are specifically designed to prevent; that the Applicants' desire for a massive three-story outdoor entertainment space is a luxury, not a legal necessity and their hardship is entirely self-created; that there are no unique physical features or shape to this lot that prevent the Applicants from building a beautiful home within the existing setback requirements; that the Sussex County Zoning Code protects neighbors from this exact type of overdevelopment because this variance will cause an immediate invasion of privacy and a substantial increase in noise and it alters the essential character of the neighborhood; that the property was previously a cookie cutter of his family's property and the previous owner decided to bulldoze it and build a four-story structure; that the home consists of four stories and has windows which allow the Applicants to look into his family's yard already and they already have a porch on the front; that he believes the Applicants are renting the space out, the basement, or the garage; and that the garage is fully finished with a kitchen, drywall, heating and air conditioning, and living space;.

Mr. Sharp asked Mrs. Norwood about the garage/basement being used as an ADU and if this was approved through the County.

Mrs. Norwood stated that there were no approvals issued by the Planning and Zoning Department for an ADU in the garage / basement for the property.

Mr. Sharp asked about the lot sizes and the porches of other homes within the community.

Mr. Panico testified that the homes all have similar size lots and there are no other homes that he knows of with large decks on multiple levels within the development.

Anne Panico was sworn in to give testimony in opposition to the Application.

Ms. Panico testified that she lives next door to the property and she is formally objecting to the requested variance for construction of a screened porch and deck; that this request should be denied because it fails to meet the strict legal criteria required for a Sussex County variance; that she based her objection on the following grounds; that there is no unique physical condition; that the property in question does not possess unique physical circumstances, narrowness, or irregular shape that create an exceptional practical difficulty; that many properties, including her property, share the exact same lot size yet are able to conform to current Sussex County zoning standards; that the need for a variance is self-created by the Applicants; that the desire to build an excessively large deck or enclosed porch that encroaches on the required setback was a choice by the property owner and the previous owner and builder, not something forced upon them by the land; that the house was built to

the extreme width, depth, and height that code allowed with four floors of livable space, and a French door was added to the third floor bedroom in anticipation of a future variance; that the adverse neighborhood impact is allowing a permanent structure, especially an enclosed porch, to be built within the required setbacks will negatively alter the essential character of the neighborhood; that a variance approval will set a dangerous precedent, block sight lines, reduce open space, and impact the light and privacy of adjacent homes; that this request does not represent the minimum relief necessary; that the Applicants are overbuilding the lot and there is no possibility of building the specific project in strict conformity with zoning ordinances; that variances are intended for unique land hardships, not for maximizing house size at the expense of neighbors; that the subject property is incorrectly described as a 2 1/2 story residence on the Application, when it is actually a four story residence; that the garage level has been completely built out with a living area, full kitchen, and bathroom and is currently occupied as a separate dwelling unit; that a four-story structure has a much larger footprint and height impact than a 2 1/2 story structure; that this directly challenges whether the variance request is the minimum variance necessary to provide relief; that the presence of an occupied, built-out living space in the garage may indicate an unauthorized use and violates accessory dwelling unit rules or density codes in Sussex County; that there are routinely 4 to 6 cars parked in the driveway; that the Applicants have created a feeling of figuratively encroaching from the ground level and they want to add on an already overwhelming house; and that the Application that contains inaccurate, incorrect property details invalidates the factual basis the Board relies on to make a decision.

Mr. Sharp asked if there was living space in the garage area with a kitchen because, if it was, the Applicants would need to come to the County for a different type of approval as there is no record of an ADU within this property and they need those approvals to have a kitchen area in the living space.

Mr. Grady testified that there is a bar in the first floor with a sink and possibly a microwave but it is not a full separate unit; and that the first floor is not rented as a separate unit.

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

Mr. Williamson closed the public hearing.

Mr. McClure moved to deny the application for Case No. 13201 for the requested variance, pending final written decision, for the following reasons:

1. The property does not have the unique physical conditions that have created exceptional practical difficulty for the Applicants;
2. The property can otherwise be developed;
3. The Applicants have 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 Applicants;
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 Mr. McClure, seconded by Mr. Kingree, carried that the **variance be denied** 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. 13202 – Sea Air Village (Lot J43) seeks variances from the separation requirements for proposed structures (Section 115-25 and 115-172 of the Sussex County Zoning Code). The property is located to the southeast side of Delaware Avenue. 911 Address: 20017 Delaware Avenue, Rehoboth Beach. Zoning District: AR-1. Tax Map: 334-13.00-310.00-54465.

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

The Applicant is requesting the following variances:

- 2 feet variance from the 20 feet separation distance requirement between the proposed manufactured home and the landing on Lot J45;
- 1.7 feet variance from the 20 feet separation distance requirement between the proposed HVAC and the manufactured home on Lot J45;
- 12.8 feet variance from the 20 feet separation distance requirement between the proposed manufactured home and shed on Lot J45;
- 9.8 feet variance from the 20 feet separation distance requirement between the proposed manufactured home and manufactured home on Lot A58;
- 6.7 feet variance from the 20 feet separation distance requirement between the proposed shed and the manufactured home on Lot A58;
- 1.6 feet variance from the 10 feet separation distance requirement between the proposed shed and the shed on Lot J41;
- 4.3 feet variance from the 20 feet separation distance requirement between the proposed landing and shed on Lot J41;
- 4.5 feet variance from the 20 feet separation distance requirement between the proposed landing and shed on Lot J41;
- 0.6 feet variance from the 20 feet separation distance requirement between the

- proposed mobile home and shed on Lot J41;
- 5 feet variance from the 20 feet separation distance requirement between the proposed landing and the manufactured home on Lot J41; and
- 1.1 feet variance from the 20 feet separation distance requirement between the proposed manufactured home and the manufactured home on Lot J41.

Brittany Stoll was sworn in to give testimony for this application.

Ms. Stoll testified that the uniquely narrow dimensions of this lot create a challenge placing the manufactured home and maintaining minimum separation between homes and accessory structures; that this lot was laid out with others in the community in the 1950s and the 1960s prior to the current county requirements for separation distances; that the lot sizes are small in comparison with the size of the modern manufactured home; that the Applicant has selected a standard size floor plan for this home that is comparable to other new homes in the community but the Applicant is still unable to place it on the lot with the required setbacks; that the narrow width of the lot and the previous build out of the surrounding adjacent lots make it difficult to place a new manufactured home on the property consistent with others in the neighborhood while maintaining compliance with Sussex County's current zoning code; that the neighbors to both the left and right have their homes and sheds placed within the five foot setback requirement; that, due to the uniqueness of the property, the property cannot be developed in strict conformity with the Sussex County Zoning Code; that the Applicant proposes to place a normal width manufactured home that is consistent with other new homes in the community and a standard size shed that is consistent with other new homes and sheds within the community but the Applicant is unable to do so without violating the separation distances requiring between neighboring manufactured homes and accessory structures; that the variances are necessary to enable reasonable use of the property and, without said variance, the property 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 the lot lines and neighboring homes; that it appears impossible for a home to be placed on the property without violating the separation distance requirements and as notated previously both homes on either side of the lot encroach on the setbacks which directly impacts the need for the variance; that the exceptional practical difficulty was created by the unique conditions of the property and the development of adjacent lots and 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 thereof; that the Applicant is seeking these variances to add to the conformity of the community and to modernize the homes within the community, which will add value to and improve the characteristics of the community and neighborhood; that the variances sought are the minimum variances necessary to afford relief and variances requested represent the least modifications possible of the regulations at issue; and that the home is the narrowest currently available and minimizes the need for variance on the property.

Mr. Williamson asked if the old home was being replaced due to being in disrepair and that

there is a change in the neighborhood where the homes are all being packed within the property lines; that the structure fits within the setbacks, but the issue is the separation distance.

Ms. Stoll testified that the prior home is being replaced; that the prior home was wider and longer than the proposed manufactured home; that the lot will fit 2 cars; and that the steps are located to one side of the home to minimize the variances needed.

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. 13202 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique physical conditions because of 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 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. 13203 – Sea Air Village (Lot L49) seeks variances from the separation requirements for proposed structures (Section 115-25 and 115-172 of the Sussex County Zoning Code). The property is located to the southeast side of Golden Avenue. 911 Address: 19989 Golden Avenue, Rehoboth Beach. Zoning District: AR-1. Tax Map: 334-13.00-310.00-54518.

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

The Applicant is requesting the following variances:

- 1.8 feet variance from the 20 feet separation distance requirement between the proposed HVAC and the covered porch on Lot L51;
- 7.7 feet variance from the 20 feet separation distance requirement between the proposed manufactured home and the shed on Lot K50;
- 10.9 feet variance from the 20 feet separation distance requirement between the proposed manufactured home and the shed on Lot K50;
- 12.1 feet variance from the 20 feet separation distance requirement between the proposed shed and the manufactured home on Lot L47;
- 4.7 feet variance from the 20 feet separation distance requirement between the proposed landing and the manufactured home on Lot L47;
- 4.8 feet variance from the 20 feet separation distance requirement between the proposed shed and the manufactured home on Lot L47; and
- 0.8 feet variance from the 20 feet separation distance requirement between the proposed manufactured home and the manufactured home on Lot L47.

Ms. Stoll who was previously sworn in to testify appeared to testify about this application.

Ms. Stoll testified that the uniquely narrow dimensions of this lot create a challenge placing the manufactured home and maintaining minimum separation distance between homes and accessory structures; that this lot was laid out with others in the community in the 1950s and 1960s prior to the current county requirements for separation distances; that the lot sizes are small in comparison with the size of the modern manufactured homes and the Applicant selected a standard size floor plan for this home that is comparable to other new homes in the community but the Applicant is still unable to place the lot within the required setbacks; that the narrow width of the lot and the previous buildout of the surrounding adjacent lots make it difficult to place a new manufactured home on the property consistent with others in the neighborhood while maintaining compliance with Sussex County's current zoning code; that, due to the uniqueness of the property, the property cannot be developed in strict conformity with the Sussex County Zoning Code and the Applicant proposes to place a normal width manufactured home that is consistent with other new homes in the community and a standard size shed that is consistent with others in the community but unable to do so without violating the separation distance requirements between neighboring manufactured homes and accessory structures; that the variances are necessary to enable reasonable use of the property, without said variances, the property 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, and the neighboring lots are also narrow, causing development of nearby lots to be nearer to the lot lines and neighboring homes; that it is not possible for a home to be placed on the property without violating the separation distance requirements; that the new replacement home will correct some of the previous separations distance issues yet a variance will still be needed for placement; that the home to the left encroaches the setback which impacts the need directly for a variance; that the exceptional practical difficulty was created by the unique conditions of the property and the development of the adjacent

lots; that the variances will not alter the essential character of the neighborhood, nor permanently impair the appropriate use or development of adjacent property nor be detrimental to the public where fault thereof; that these variances will add a conformity to the community and to modernize the homes within the community which will subsequently add value and improve the characteristics of the community and neighborhood; that the variances sought are the minimum variances required and necessary to afford relief and the variances requested represent the least modifications possible of the regulations at issue; and that the home is the narrowest currently available and minimizes the needs for a variance on the property.

Mr. Kingree asked approximately how many of the homes in Sea Air have been replaced and how many are remaining that will be coming in for future variances.

Ms. Stoll testified that she has been with Sea Air for 4 ½ years now and they have replaced over 35 homes and they replace them as they become available.

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. 13203 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique physical conditions because the property is narrow and short and does not accommodate the newer style of mobile home;
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 Mr. McClure, seconded by Mr. Lovenguth, carried that the **variances be approved** for the reasons stated. Motion carried 5-0.

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

Case No. 13205 – Softball World, LLC seeks a special use exception for an outdoor display or promotional activity (Sections 115-23, 115-83.6 and 115-210 of the Sussex County Zoning Code). The property is located to the southeast side of Lewes Georgetown Highway (Route 9), approximately 0.43 miles west of Park Avenue. 911 Address: 22518 Lewes Georgetown Highway, Georgetown. Zoning District: CR-1/AR-1. Tax Map: 135-15.00-82.00.

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

The Applicant is requesting a special use exception for an outdoor display and promotional activities.

Brock Rogers was sworn in to give testimony for this application.

Mr. Rogers testified that the Applicant is requesting a special use permit for a period of five years for 22518 Lewes Georgetown Highway in Georgetown; that the Applicant's goal is to bring a safe, high quality annual Halloween and Christmas event to the area while using the property year round to host outdoor family events and fundraising to give back to the community; that the Applicant has carefully designed the operations to ensure everything runs smoothly and efficiently; that the main attraction itself will be located entirely in the backside of this property, keeping it contained and minimizing visibility from the main road; that all guest parking will be handled fully on site within the dedicated parking lot, which provides more than adequate space to accommodate the attendees; that the attraction will run for a total of 18 nights and operate Friday through Sunday during the month of October, plus one weekend of Friday and Saturday in both November and December; that, for these main events, the attraction will be open from 6 p.m. to 11 p.m. to ensure an orderly wind down each night; that the last tickets will be sold or scanned at 10 p.m. to allow the Applicant to process the remaining guests on site and clear the property efficiently by closing time; that all parking, queuing, and traffic will be managed strictly within the property lines by dedicated staff; that, outside of these main annual events, the Applicant wants to host occasional pop-up style outdoor fundraising throughout the year; that these events will not be an every weekend occurrence but rather selective events to provide local families with safe things to do close to home, partner with local charities, and actively support local small businesses by giving them a venue to vend, cross promote, and keep revenue right here in the community; that the Applicant wants to be great neighbors and a major asset to this town.

Mr. Williamson asked if this is the old Sports at the Beach, under new ownership and this setup is the same as the one that had been approved by the Board years back for the same idea; that the plan is to have the same setup as they did, with the location, ticket booths and everything the same as the previous request; that the closest residential property to this location is located on Route 9.

Mr. Rogers testified that the setup will remain the same with the addition of the Christmas event, as he is trying to build it up more; that the closest home is on Route 9, approximately ¼ mile

from the property location and the neighbors are in favor of this proposal; that the Applicant is redoing all the outdoor lighting and there will be a small pathway leading from the front to the rear; that the noise level will be a minimal amount for the type of event; that there will be some haunted house noise but no outdoor music; that the hope is to sell approximately 500 tickets for the first events and hopefully increase over the years; that he would limit the ticket sales to 1,000 to 1,500 per night; that there is ample parking at this location so that number of ticket sales would not be a problem; that the Applicant hopes to do some pop up events throughout the year but it has not been finalized as of yet; that the Halloween event will be worked out with the Sports Complex so that there will not be any overlapping of events and the Applicant could utilize part of their parking lot and gravel area; and that it would be smaller than the baseball tournaments.

Mr. Sharp asked Mrs. Norwood if in the previous approval there were any complaints or violations.

Mrs. Norwood stated that there are no complaints on record for the County and they had three previous approvals dating back to 2010 and they were all five-year approvals.

Mr. Sharp stated that, if the Applicant was only doing three or less pop-up events then he could request them through the County and the Director's approval; that, if the Board wanted to include that as part of the request, then there would be a need for hours and ideas for these events.

Mr. Rogers testified that he would not have the days or types of events at this moment because it was a last-minute thought and he had not prepared anything yet; that, if the Board does not want to approve the pop-up events, then he could always come back for another special use exception when he has more details pertaining to the events; that the events will be serviced by porta-pottys; that all lights will be downward facing; and that all noises are contained within the buildings.

Mr. Sharp stated that, for the record, the Applicant is seeking a five-year approval for 18 days, for Friday through Sunday for the weekends in October, one weekend in November and one weekend in December; that the hours will be 7 p.m. to 11 p.m. with the last ticket issued at 10 p.m.; and that all work will be completed by 11 p.m.

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. 13205 for the requested special use exception, for a period of five (5) years, pending final written decision, because the use will not substantially adversely affect the uses of adjacent and neighboring properties and subject to the following conditions:

1. That the event will be from Fridays to Sundays in October, one weekend in November and one weekend in December from 7 p.m. to 11 p.m.; and
2. That this special use exception be valid for a period of five years.

Motion by Dr. Hitchens, seconded by Mr. McClure, carried that the **special use exception be approved with conditions** 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. 13206 – Gary Lee seeks variances from the side yard and rear yard setback requirements for a proposed structure (Section 115-25 and 115-183 of the Sussex County Zoning Code). The property is located to the east side of Duane Drive. 911 Address: 31811 Duane Drive, Frankford. Zoning District: AR-1. Tax Map: 134-10.00-272.00.

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

The Applicant is requesting the following variances:

- 10 foot variance from the 15 feet side yard setback requirement on the south side for a proposed pole building; and
- 15 foot variance from the 20 feet rear yard setback requirement for a proposed pole building.

Gary Lee was sworn in to give testimony for this Application.

Mr. Lee testified that he is applying for a rear and side yard setback variances for a proposed pole barn; that he purchased this home a year ago with the purpose of being able to retire there in a few years; that the pole barn will be used to house classic cars and have room to have garage space to use; that he went to the pole building company before buying the home and he was told that the pole building could be placed on the property with no issues; that, after he began clearing the trees, the builder told him that there was an issue with the placement of the drain field which would affect the proposed placement of the pole building; that he had soil specialists come out and determine where the septic field was and, in the meantime, the pole building has been put on hold for the last year with all of the materials sitting in his driveway; that he is attempting to do everything the right way without having any issues; that the drain field is being moved and a PEAT system is being installed so that it will take up less room than the original septic system; that, in order to place the new PEAT system, the pole barn needs to be moved closer to the rear yard and side yard property lines; that the position he chose for the new placement was the least impactful to his neighbors and he spoke with the neighbor about the plans for his property and they all were in support and signed off on it being done; that there are neighbors around him that have similar sized – if not larger - pole buildings to what he

proposes; that neighbors have structures measuring 15 feet by 20 feet; and that the neighbors directly next to him have buildings on the five foot mark with electric, heat and air.

Mr. Kingree asked whether the new drain field has already been dug and put in.

Mr. Lee testified that the new drain field has not been installed yet because they are waiting on the verdict of the variance case and, if this application is denied, they may need to turn the building in a different direction in order to make everything fit; that the entrance to the building will be on the same side as the current driveway and they need to be sure that the drain field is not near that area.

Mr. Williamson asked about the number of cars being stored in the pole building and if there was any consideration to making the building smaller.

Mr. Lee testified that he has about 6 cars that would be stored in the building and that he also has a lot of stuff that requires him to have a larger storage space; that the purpose for this size is to keep a lot of his stuff in the pole building and not outside on his property; that there is no HOA within the community; that there are several homes within the community that have similar size pole buildings; that the pole building will be 16 feet tall either to the roof or truss; that he can fit 2 cars in the garage; and that the pole building will have a lean-to.

Mr. Sharp stated that, if the garage is going to have more than four vehicles and is over 900 square feet for the storage of the vehicles, the Applicant will have to apply for a special use exception; that, if the Board were to approve a variance request, the Applicant would also have to come back to the Board at a separate hearing for a special use exception because a special use exception was not noted on the Application and was not advertised to the public; that the Board would have to have a second hearing on that to give the public an opportunity to have an opinion on that request since it is a different standard than the variance standard; that there is a code section regarding the size of a garage for vehicles; and that the Applicant has a proposed pole building and a lean-to coming off it as well in the front. Mr. Sharp asked whether the Applicant thought about removing the lean-to and moving the pole building closer into the middle of the yard as that would appear to minimize a substantial need for the variance. Mr. Sharp stated that, if the Applicant were to do that, the Applicant could reduce the rear yard setback or variance request by 10 feet and likely be able to remove maybe all or at least very close to that of the side yard variance request; that one of the standards that the Applicant has to meet is that this request is the minimum variance necessary to afford relief and, if the Applicant fails to meet that standard, the Board could deny the request; that the other thing that the Board has to look at is that this property has to have some unique physical condition and the Applicant testified about the drain field issue but, the materials presented to the Board show three septic lids behind the house; that he recognizes the drain field would be away from that area but where is the current drain field and where is the proposed PEAT system that the Applicant is looking at in relation to this so that the Board an idea as to what the limitations exist in the rear yard.

Mr. Lee testified that the current drain field is the area behind the gas tank and south of the septic lids and the new proposed PEAT system would be along the north side of the property behind the septic; and that the reason for not turning the structure is because if they did it would be more impactful on the neighbor who would be looking at a large wall of the building.

Patricia Lee was sworn in to give testimony in support of the Application.

Ms. Lee testified that the Applicant purposely brought this property because of the large lot and was told by the real estate agent that there would not be any problem at all putting in a pole building; that the Applicant did not know anything about septic fields; that they have come to know all their neighbors and the neighbors totally on board with it; that right behind the house is a big field on the east side and on the other side of Wingate is a cemetery; that it is a very rural area and the proposal will not really impacting many people; that the pole building is not for commercial use; that the pole building will be used for her husband's hobby as, over the years, he has collected a lot of cars and the pole building will provide a place to store them; that the Applicant not going to do any commercial work at all; and that the pole building is just for fun and the Property will be used as their retirement home.

Richard Wood was sworn in to give testimony in opposition to the Application.

Mr. Wood testified that he lives at 31752 Duane Drive, Frankford, which is Lot 285; that the Applicant is proposing putting this very large structure, 60' by 40', which is 2,400 square feet, on 1/2 acre residential lot which alters the character of this neighborhood in a major way; that the proposed structure is actually larger than the existing house on this lot; that there are 30 homes in the neighborhood under development and none of these homes have a structure that is anywhere close to being that size; that the majority of them are 600 square feet or even less and the size of this proposed structure is almost like a commercial building or what would be a barn on a farm property not something for a residential neighborhood; that the proposed pole building seriously alters the character of the neighborhood; that, on the Application items one and three, with the size of the proposed structure and the entire footprint of this plan under current DNREC standards, he questions how can this lot accommodate what is a revised or modified septic system; that there are no plans submitted tonight and he has concerns about the environmental impact that this may have on the neighborhood, not only the individual property, but the neighboring properties as well; that, on page 11 of the 15 pages that were submitted, the Applicant states that signed endorsement letters from affected neighbors are forthcoming and he has said that the neighbors are agreeing and that is all fine and good but he wonders if the neighbors were given the size of the structure; that the neighbors probably have not seen the plan, which was just posted recently; that there are a couple of bigger buildings in the neighborhood but none anywhere near a property line and most are detached garages that may be bigger than 600 square feet; that how are they going to fit everything in since he wants a driveway, a parking pad, and the pole building outside of the drain field; that the proposed building alters the character of the neighborhood because everyone else has a little shed and no one has a building this large; that there are no restrictive covenants; and that he is unaware of drainage issues

in the neighborhood.

Mr. Williamson asked Mr. Lee if the request to update the drain field is so that they can incorporate a future bathroom, bedroom or kitchen in this large pole building in the future.

Mr. Lee testified that the septic system he has already is too small for his current home and that is why he needs to upgrade it and, since that needs to happen, then moving it to accommodate the placement of the pole building just works; that the house consists of 2700 square feet; that the pole building will be smaller; that he did not intend to upset neighbors; and that the septic will be expanded because it was designed for 3 bedrooms and there are 4 bedrooms.

Mr. Lovenguth asked Mr. Lee if he would be willing to alter the lean-to with the patio area to better accommodate the pole building and the need for the variances.

Mr. Lee testified that he would like to talk with the company that will be designing the drain field first and then make a decision about further alterations at that point.

Mr. Kingree stated that one thing the Board could do is potentially leave the record open to submit a plan that has been altered with either the drain field specifically laid out, or the alterations made to the pole building.

Mr. Lovenguth asked Mr. Sharp, pending the need for a variance, because of the size of the building, we are still going to need a special use exception.

Mr. Sharp stated that is correct and if it was something that the Applicant wanted to proceed with there would be a need for a new application and hearing as the capacity limit is four cars and 900 square feet; that, if it is larger than those two figures, then there will be the need for a special use exception; that if the Applicant chose to do a pole building of that size and wants to store six cars then, to be in compliance with the Code, the Applicant would need to apply for the special use exception; that, if the Board so decided, the Board could leave the record open for this purpose and leave it open so that others could comment because it could be a different proposal, where it may have more on the side yard because it is turned or it might be that no variance would be needed or lesser variance; that the Board would want to leave the record open so we could see the proposal and give the Applicant and others a chance to get that; that, if the Board were to schedule it out for the first meeting in August, it is possible the Board would have time to advertise for a special use exception so that could be heard at the same time, assuming that was something the Applicant wanted to go through with, which we do not know if he would or would not but, if the Board were to give enough time there, the Board could save the Applicant and any of the interested parties and the Board by combining that hearing with this one; that you could ask the Applicant if you thought that was sufficient, but maybe give the Applicant until the end of July to submit whatever plans, showing the septic system as proposed and any location of the proposed structure and then schedule the hearing for the first meeting in August.

Mr. Lee asked if he is allowed to put the pole building up without the special use exception or is this his only option.

Mr. Sharp stated that the pole building would have to only house four vehicles or be under the 900 square feet requirement.

The Board found that one person appeared in support of the Application and one person appeared in opposition to the Application.

Mr. Williamson closed the public hearing.

Mr. Lovenguth moved to leave the record open for Case No. 13206 to allow for the Applicant to submit an updated construction plan by July 27, 2026, and to hold a hearing on August 3, 2026. As part of the motion, Mr. Lovenguth moved that, if the Applicant submits a timely special use exception application so that a hearing could be advertised and held on August 3rd, the hearing on that application could be held at the same time as this application.

Motion by Mr. Lovenguth, seconded by Mr. Kingree, carried that the **record be left open for and a hearing be scheduled for August 3, 2026** for the reasons stated. Motion carried 5-0.

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

ADDITIONAL BUSINESS

Meeting adjourned at 8:03 p.m.