

## **MINUTES OF JUNE 16, 2025**

The regular meeting of the Sussex County Board of Adjustment was held on Monday, June 16, 2025, at 6:00 p.m. in the County Council Chamber, Sussex County Administration Office Building, Georgetown, Delaware.

The meeting was called to order at 6:00 p.m. with Chairman Jeffrey Chorman presiding. The Board members present were Mr. Jeffrey Chorman, Mr. John Williamson, Mr. John Hastings, 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. Chorman.

Motion by Mr. Hastings, seconded by Mr. Lovenguth and carried unanimously to approve the agenda. Motion carried 5 – 0.

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

Motion by Mr. Williamson, seconded by Mr. Hastings and carried unanimously to approve the Minutes for the April 28, 2025, meeting. Motion carried 5 – 0.

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

Motion by Dr. Carson seconded by Mr. Lovenguth and carried to approve the Findings of Facts for the April 28, 2025, meeting. Motion carried 5 – 0.

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

Motion by Mr. Lovenguth, seconded by Dr. Carson and carried unanimously to approve the Minutes for the May 5, 2025, meeting. Motion carried 5 – 0.

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

Motion by Mr. Hastings seconded by Mr. Lovenguth and carried to approve the Findings of Facts for the May 5, 2025, meeting. Motion carried 5 – 0.

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

Motion by Mr. Williamson, seconded by Dr. Carson and carried unanimously to approve the Minutes for the May 19, 2025, meeting. Motion carried 5 – 0.

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

Motion by Dr. Carson seconded by Mr. Lovenguth and carried to approve the Findings of Facts for the May 19, 2025, meeting. Motion carried 5 – 0.

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

### **OLD BUSINESS**

**Case No. 13066 - James Nichols** seeks a variance from the front yard setback for an existing structure. (Section 115-185 and 115-139 (c) of the Sussex County Zoning Code). The property is located on the south side of Lagoon Lane within the Mariner's Cove Manufactured Home Park. 911 Address: 35414 Lagoon Lane, Millsboro. Zoning District: VRP. Tax Map: 234-25.00-4.00-56380

Ms. Norwood presented the case.

Mr. Sharp stated that the case was left open with the limited purpose for the Applicant to submit a survey showing that the structure did not encroach over any property lines, that a site plan dated June 5, 2025, was submitted to the Office of Planning and Zoning; and that the record is closed.

Mr. Hastings stated that he had listened to audio and reviewed the record and is prepared to vote on the Application.

Ms. Norwood stated that the variances needed are 24.9 feet from the 25 foot front yard setback requirement for the existing deck; that the steps will need a variance also; that no variance is needed for the house; and that the cul-de-sac is a “paper” cul-de-sac.

Dr. Carson moved to approve the application for Case No. 13066 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique physical conditions due to the front curvature of the roads;
2. The variances will not alter the essential character of the neighborhood;
3. The variances represent the minimum variances necessary to afford relief; and
4. That the variance for the steps and porch are also granted as calculated by staff per the June 5, 2025, site plan.

Motion by Dr. Carson, seconded by Mr. Lovenguth, carried that the **variances be approved for the reasons stated**. Motion carried 5 - 0.

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

### **PUBLIC HEARINGS**

**Case No. 13081 – Robert Bayles** seeks a variance from the side yard setback for a proposed structure (Sections 115-25 and 115-185 of the Sussex County Zoning Code). The property is located on the south side of Pleasant Drive within the North Towns End II subdivision. 911 Address: 6435 Pleasant Drive, Laurel. Zoning District: AR-1. Tax Parcel: 432-6.00-223.00

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received one (1) letter of support, zero letters of opposition, and one (1) mail return.

The Applicant is requesting a 9 ft. variance from the 15 ft. side yard setback requirement on the west side for a proposed structure.

Mr. Robert Bayles was sworn in to give testimony about the Application.

Mr. Bayles testified that he bought the property in October 2024; that the intent is to have the garage meet the edge of the paved driveway; that the garage will be located 6 feet from the side yard property line; that there is no other place where the garage can be located; that there is a well behind the proposed garage location; that there is a septic system on the opposite side of the house; that attaching the garage to the home is not a viable option; that there is already a garage attached to the house; that he would have to widen the driveway if he connected the garage; that there is a power box is approximately 12 feet from the driveway; and that the neighboring property closest to the proposed garage is supportive of the Application.

Mr. Bruce Wordwell was sworn in to give testimony about the Application.

Mr. Wordwell testified that he spoke with the homeowners association and the association is fine with the garage; that Lot 40 faces a different road so the garage would be to that lot's rear yard; that the garage is not close to the house on Lot 40; and that the attached garage measures 20 feet by 20 feet.

Mr. Bayles testified that the garage would be utilized to store his truck, lawnmower, and home goods; that the house was purchased as it sits and wanted to add a garage; that he likes to tinker; that the attached garage is 20 feet by 20 feet; that he considered a smaller garage; that the proposed garage could be shifted closer to the house but he does not want to be closer to the house because it would be hard to access the garage from the driveway; that there will not be any steps protruding from the proposed structure; that the truck measures 19.5 feet deep; that the dwelling was built in 2019; and that there is no unusual shape to the property.

Mr. Sharp stated that an accessory structure with a square footage of 600 square feet or less could be five (5) feet from the property line and the proposed structure is approximately 726 square feet.

Dr. Carson moved to continue the case and leave the record open for the Application of Case No. 13081 and to bring it back after Case No. 13083 and before Case No. 13084 to allow the Applicant time to speak with his builder.

Motion by Dr. Carson, seconded by Mr. Lovenguth, carried that case be recessed. Motion carried 5 - 0.

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

After the hearing for Case No. 13083, the Board returned to Case No. 13081.

Mr. Bayles testified that he spoke with his builder; that they could modify the orientation and size of the garage to reduce the variance needed; and that the dimensions of the structure would be 26 feet by 30 feet and a variance of 5 feet from the 15 foot side yard setback requirement would be needed

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

Mr. Chorman closed the public hearing.

Mr. Williamson moved to deny the application for Case No. 13081 for the requested variance, pending final written decision, for the following reasons:

1. The exceptional practical difficulty is being created by the Applicant;
2. The variance sought is not the least modification of the regulation at issue; and
3. The variance sought is not the minimum variance necessary to afford relief.

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

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

**Case No. 13082 – Orshelia E. Thorpe** seeks variances from the front yard setback for proposed structures (Section 115-25 and 115-182 of the Sussex County Zoning Code). The property is located on the south side of Lakeview Road within the Lake Wood Estates subdivision. 911 Address: 29114 Lakeview Road, Millsboro. Zoning District: AR-1. Tax Parcel 133-19.00-27.00

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

The Applicant is requesting an 8 feet variance from the 40 feet front yard setback requirement for a proposed porch.

Ms. Orshelia Thorpe was sworn in to give testimony about the Application.

Ms. Thorpe testified that the lot is triangular in shape; that she seeks to add a porch to the front of the house; that the porch would provide easier access for her elderly parents; that the porch measures 6.5 feet by 15 feet; that the other renovations to the house do not need variances; that the porch failed its initial inspection; that the property is surrounded by wooded lots and County Road 412; that the porch will not adversely affect the neighborhood; that there is approximately 15 feet between the road and her property line; that there is no homeowners association; that the house was built in 1995; that the well is located west of the house and the septic system is located to the rear of the house; that she has not been in contact with any of the neighbors; that a contractor acquired the building permits and she signed the documents; that she was unaware of any setbacks on the property when beginning the additions; that the addition to the side and rear have been approved; that the existing steps have been removed; that she did not place the house; that the porch is within the area of the existing steps and sidewalk; and that the steps will project 2 feet beyond the porch.

Ms. Norwood confirmed that the house received a certificate of occupancy and an administrative correction was performed to bring the home into compliance.

Ms. Thorpe testified that she did not place the house on the property; that the proposed porch will not be any larger than the existing steps and sidewalk footprint; and that there will be two steps to access the proposed porch that will be closer to the driveway.

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

Ms. Thorpe submitted documents to Ms. Norwood for the record.

Mr. Sharp stated that the corrected variances needed are the following:

- 8.7 feet from 40 foot front yard setback requirement for the porch
- 10.7 feet from 40 foot front yard setback requirement for steps

Mr. Chorman closed the public hearing.

Mr. Hastings moved to approve the application for Case No. 13082 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique physical conditions due to the shape and distance between the edge of pavement and property line;
2. The exceptional practical difficulty is not being created by the Applicant;
3. The variances will not alter the essential character of the neighborhood;
4. The variances sought are the minimum variances necessary to afford relief.
5. This approval is subject to staff's determination of the actual variance needed for the steps.

Motion by Mr. Hastings, seconded by Mr. Williamson, carried that the **variances be approved for the reasons stated.** Motion carried 5 - 0.

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

#### RECESS

**Case No. 13083 – Richard and Jolene Evans** seek variances from the side and rear yard setbacks for existing structures (Section 115-20, 115-25, and 115-183 of the Sussex County Zoning Code). The property is located on the south side of Chipmans Pond Road. 911 Address: 12070 Chipmans Pond Road, Laurel. Zoning District: AR-1. Tax Parcel 232-13.00-3.28

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received five (5) letters of support, zero letters of opposition, and zero mail returns.

The Applicants are requesting the following variances:

- 49.2 ft from the 50 ft rear yard setback requirement for an existing horse run.
- 49.7 ft from the 50 ft rear yard setback requirement for an existing horse run.
- 36.4 ft from the 50 ft side yard setback requirement on the southeast side for an existing horse run.

Ms. Jolene Cross was sworn in to give testimony about the Application.

Ms. Cross testified that there are three horses on the property that will be utilizing the structures; that the property is zoned AR-1; that the horse run is less than 600 square feet; that the property is unique due to the history of the property; that the property was a part of a campground; that there are multiple wells and septic systems are on the property; that horse run is placed in the safest spot on the property as it is located in an area where it is known that no wells or septic systems are located; that the narrow width of the lot, along with the wells and septic systems, does not allow for the structure to be placed anywhere else; that a horse could die if it hit an abandoned well or septic system; that she learned of the issue when a truck fell into a septic elsewhere on the property; that the

variances requested are the minimum variances needed; that the Applicants own adjacent property as well; that the structure is more than 100 feet from the nearest dwelling; that the preexisting conditions of the property were not created by the Applicants and limit the use of the property; that the structure will not alter the essential character of the neighborhood; that the Applicants did not create the exceptional practical difficulty as the issue was created by a prior owner who created the campground; that the surrounding area is used for agricultural purposes; that combining the lots was not an option; that the Applicants have a mortgage on the adjacent property but not this property; that the horses are used as therapy for their daughter and her medical condition; that variances are the minimum variances necessary to aid relief and modifications possible; that the placement of the structure does not impede the use or enjoyment of the neighboring properties and ensures that the paddock meets the minimum recommended size per horse which is 1,000 square feet per horse; that the structure is only 348 square feet; that the house on the property was built in 2003 and they moved in 2016; that the Equine Rescue on adjacent lands has been there since the house was built and that the use of the rescue will remain for as long as they can see; that the structure was installed in October 2024; that a neighbor was turned in similar issues and they called them in; that the need for the variances were brought to light due to a violation; and that there are (5) letters of support from neighboring properties.

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

Mr. Chorman closed the public hearing.

Mr. Hastings moved to deny the application for Case No. 13083 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 Applicants;
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. Hastings, seconded by Mr. Lovenguth, carried that **the variances be approved for the reasons stated**. Motion carried 5 - 0.

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

**Case No. 13084 – Valerie Horsey** seeks a special use exception for a childcare center (Sections 115-40 of the Sussex County Zoning Code). The property is located on the south side of Dove Road. 911 Address: 23856 Dove Road, Seaford. Zoning District: GR. Tax Parcel: 231-12.00-422.00

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

Ms. Valerie Horsey was sworn in to give testimony about the Application.

Ms. Horsey testified that she seeks to have an in-home daycare; that having the childcare center will not adversely affect the neighbors due to the size of her land at 2.5 acres; that there is a privacy fence and plenty of parking; that there was a previous special use exception granted on the property that had lapsed, which is why she is here today; that the hours of operation will be Monday through Sunday 6:00am to 4:00pm and 5:00pm to 11:00pm and every or every other weekend as needed; that her hours will be non-traditional; that there will be 6 preschoolers and 3 school aged children; that the employees will consist of her, her mother and husband; that her mother lives with her; that the back yard is fenced along with the privacy fence; that the neighborhood is mainly residential with another in home daycare right down the road; that roughly 9 vehicles maximum would be on the property at a time; that she expects to continue this use for the next 10 years; and that there were no complaints on the previous special use exception and no known complaints now.

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

Mr. Chorman closed the public hearing.

Dr. Carson moved to approve the application for Case No. 13084 for the requested special use exception, pending final written decision, because the use will not 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 approved for the reasons stated**. Motion carried 5 - 0.

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

**Case No. 13085 – Ryan Lehmann** seeks a variance from the front and side yard setback for existing and proposed structures and a special use exception for outdoor display or promotional activities at shopping centers or elsewhere (Section 115-80, 115-182, and 115-183 of the Sussex County Zoning Code). The property is located on the south side of Lewes Georgetown Highway. 911 Address: 26822 Lewes Georgetown Highway, Harbeson. Zoning District: C-1. Tax Parcel 235-30.00-58.02

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received zero letters of support, zero letters of opposition, and zero mail returns. Ms. Norwood noted that no variances are needed because an outdoor display has a 25 feet front yard and a 5 feet side yard setback requirement which is met by this proposal.

Mr. Ryan Lehmann was sworn in to give testimony about the Application.

Mr. Lehmann testified that the display will be 55 feet from the edge of pavement; that the 25

foot setback will be met; that the proposed display will be behind the existing sign; that the variance is not needed; that only the special use exception is needed; that the proposed display would include a pergola, pavilion, and outdoor kitchen with pavers; that no electric or plumbing would be included; that he was not aware of these requirements until they came to apply for a permit; that the display will be removed if needed easily in the future; that there will still be plenty of parking even with the display; that the neighbors have no opposition; that the display will not be illuminated; and that the surrounding area consists of an industrial park and Old Wood business and his property consists of 4 acres of commercially zoned property.

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

Mr. Chorman closed the public hearing.

Mr. Lovenguth moved to approve the application for Case No. 13085 for the requested special use exception, pending final written decision, for a period of five (5) years because the proposed use will not substantially adversely affect the uses of adjacent and neighboring properties.

Motion by Mr. Lovenguth, seconded by Dr. Carson, carried that **the special use exception be approved for a period of five (5) years for the reasons stated.** Motion carried 5 - 0.

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

**Case No. 13086 – Ida Wheatley** seeks a variance from the maximum fence height within the front yard setback requirement for a proposed structure (Section 115-34, 115-182, and 115-185 of the Sussex County Zoning Code). The property is located on the north side of River Road. 911 Address: 32069 River Road, Millsboro. Zoning District: MR. Tax Parcel: 234-34.11-10.00 and 234-34.11-10.02

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

The Applicant is requesting the following variance:

- 8 inch variance from the 42 inch maximum fence height requirement for a proposed fence

Mr. Colby Norwood was sworn in to give testimony about the Application.

Mr. Norwood testified that the proposed fence will be 50 inches tall and located 6 feet from the paved road; that the house has been on the property for a very long time and predates the enactment of the Sussex County Zoning Code; that the fence will run 110 feet along the side of the property and along the front property line to the far front corner of the house; that the house is located 20 feet from

the road; that the placement of the home limits the ability to comply with the 40 foot setback requirement to exceed 42 inches; that the 50 inch fence is required due to the safety of their family's needs; that the existing home impedes the development and use of the property; that the fence will not alter the essential character of the neighborhood but improve it; that the development along Rt. 25 and Old Orchard Road has led to increased traffic; that the proposed fence will be constructed of steel cattle panels and the materials do not come in a measurement less than 50 inches in height; that other homes in the neighborhood have taller or more solid fences located closer to the road; that the fence will be in keeping with the neighborhood; that the fence will not impair the uses of neighboring properties; that the materials used will provide an open line of site and not impact the road views; that this is the minimum variance needed; that the proposed fence will stay in line with the neighboring property; that the left side of the property is an easement and the front is the main road; that the fence will allow the children to have a safer spot to play; that the roadway and property are very close; and that the fence will not obstruct the line of sight on the roadway.

Danielle Norwood was sworn in to give testimony about the Application.

Ms. Norwood testified that with her grandchildren playing in the yard; that the fence will assist with the safety factor; that there is a sharp curve along the road; that a neighbor was killed by a car crash into a house; that cars have gone into the yard at times; and that she was raised in the area.

The Board found that one (1) person was present in support of the Application and no one appeared in opposition to the Application.

Mr. Chorman closed the public hearing.

Mr. Williamson moved to approve the application for Case No. 13086 for the requested variance, pending final written decision, for the following reasons:

1. The property has unique physical conditions due to the location of the house;
2. The exceptional practical difficulty is not being created by the Applicant due to the house being set in a difficult spot and needing safety for the Applicant's family;
3. The variance will not alter the essential character of the neighborhood because the neighboring property has a fence that it will be adjoining; and
4. The variance sought is the minimum variance necessary to afford relief.

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

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

**Case No. 13090 – Karl Thomas** seeks a special use exception and variance for an accessory dwelling unit with a floor area greater than 1,000 sq ft or 50% of the floor area of the single-family dwelling located on the same lot. (Sections 115-20 A(15)(c) and 115-23 of the Sussex County Zoning Code). The property is located on the southeast side of Hurdle Ditch Road approximately 713 ft. south of Johnson Road. 911 Address: 22673 Hurdle Ditch Road, Harbeson. Zoning District: AR-1. Tax Map: 234-10.00-70.12

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

The Applicant is requesting the following:

- A special use exception for an accessory dwelling unit;
- An 80 square foot variance from the 1,000 square foot maximum allowable square footage for an accessory dwelling unit

Mr. Karl Thomas was sworn in to give testimony about the Application.

Mr. Thomas submitted documents for the record.

Mr. Thomas testified that existing dwelling houses his elderly mother who has dementia and his sister who is handicapped; that he is a nurse and the family assists with the care of his mother and sister; that the accessory dwelling unit would be utilized for the family and their care taking on site; that the original square footage was based off the assumption that the measurement was taken from the interior, not exterior, of the ADU; that the ADU is 980 square feet from the interior and measuring from the exterior puts them over the allowable 1,000 square feet; that he has spoken to the neighbors and they are in support of the Application; that the ADU will be energy efficient and built to be handicap accessible; that the property is 2.7 acres and plenty of room to build; that the neighborhood will not be adversely affected; that the variance is the very minimum variance needed; that the ADU application meets all other criteria required minus the square footage that was incorrect due to a technical error / measurement; that with the addition of the “main” dwelling, the current dwelling will become the accessory dwelling unit; that the original dwelling was built and a certificate of occupancy was issued in November 2023; that his mother has settled into the unit but her condition is deteriorating; that his mother previously lived elsewhere and suffered frequent falls; and that the ADU is designed to minimize those falls.

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

Mr. Chorman closed the public hearing.

Dr. Carson moved to approve the application for Case No. 13090 for the requested variance and special use exception, pending final written decision, for the following reasons:

1. The variance will not alter the essential character of the neighborhood;
2. The variance sought is the minimum variance necessary to afford relief; and
3. The use will not substantially adversely affect the uses of adjacent and neighboring properties.

Motion by Dr. Carson, seconded by Mr. Williamson, carried that the **variance and special use exception be approved for the reasons stated.** Motion carried 5 - 0.

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

### **ADDITIONAL BUSINESS**

There was no additional business.

**Meeting adjourned at 8:17 p.m.**