

MINUTES OF MARCH 23, 2026

The regular meeting of the Sussex County Board of Adjustment was held on Monday, March 23, 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 Mr. Shawn Lovenguth, Dr. Lauren Hitchens, Mr. Nate Kingree, Mr. Chuck McClure, and Mr. John Williamson. Also, in attendance were Mr. James Sharp, Esquire – Assistant County Attorney, Mr. Vince Robertson, Esquire – Assistant County Attorney, and staff members Mr. Jamie Whitehouse – Planning & Zoning Director, Ms. Jennifer Norwood – Planning and Zoning Manager, Ms. Ann Lepore – Recording Secretary, and Ms. Veronica Stout – Clerk II.

The Pledge of Allegiance was led by Mr. Williamson.

Motion by Mr. Lovenguth, seconded by Dr. Hitchens and carried unanimously to approve the agenda. 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. 13171 – William John & Diane Brooks Trustees seeks variances from the agricultural separation requirement for existing structures (Section 115-20 and 115-4 of the Sussex County Zoning Code). The property is located on the south side of Milton Ellendale Highway (S.C.R. 16). 911 Address: 22644 Milton Ellendale Highway, Milton. Zoning District: AR-1. Tax Map: 235-13.00-28.00.

Mrs. Norwood and Mr. Sharp recused themselves from this application and left the Council Chamber. Mr. Robertson served as the Board's attorney and Mr. Whitehouse served as the Board's secretary for this Application.

Mr. Whitehouse 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 the following variances:

- 14.7 feet variance from the 200 feet separation requirement between a dwelling and a poultry house; and
- 36.1 feet variance from the 200 feet separation requirement between a dwelling and a poultry house.

John Roach was sworn in to give testimony for this application.

Mr. Roach testified that he is representing the Applicants and completed the new survey for them; that they have been operating an existing poultry farm since the early 1990s and some of the homes were built prior to that time; that they are subdividing the single parcel into three lots along Route 16 and the remaining poultry farm all as separate lots; that, when completing the survey, they were able to meet the DelDOT requirements and lot sizes per the County except the separation distance requirement from poultry farm and the dwellings; that the family is asking to allow for the reduced separation distance as they were originally intended to be one lot and not need to be a specific distance apart; that the only reason for the variances is because the family is splitting the parcel into individual lots and not keeping it as just the parcel as a whole as the working poultry business; that the buildings that require the variances are already in place and have been for years; that nothing is changing in terms of the agricultural buildings as they have been in place for years and the plan is to keep them in place; and that this is the result of a simple minor subdivision plan and nothing more.

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. 13171 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique physical conditions;
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 regulation at issue; and
10. The variances represent the minimum variances necessary to afford relief.

Motion by Mr. Lovenguth, seconded by Mr. Kingree, 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, Dr. Hitchens – yea, Mr. Lovenguth - yea and Mr. Williamson – yea

Mrs. Norwood and Mr. Sharp returned to the Council Chambers and Mr. Robertson and Mr. Whitehouse left the meeting.

Case No. 13168 – The Jeffrey & Margaret Dennis Trust seeks variances from the separation requirements for proposed structures (Section 115-34 and 115-172 of the Sussex County Zoning Code). The property is located on the southwest side of Monterray Ave. 911 Address: 33988 Monterray Ave., Frankford. Zoning District: MR. Tax Map: 134-17.00-39.03-184.

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

The Applicant is requesting the following variances:

- 4.9 feet variance from the 40 feet separation requirement between the screened in porch and Unit No. 185; and
- 5.2 feet variance from the 40 feet separation requirement between the landing and Unit No. 185.

Margaret Dennis, Jonathan Dennis, and Dorothy Bealer were sworn in to give testimony for this application.

Ms. Dennis testified that they are requesting a variance to enclose their current porch and then add a porch to the enclosure for her husband who lives on the lower level of the home due to mobility issues; that, when they go to enclose the current porch and add the additional porch to the dwelling, it will encroach on the separation requirements; that the existing residential dwelling is located on the parcel of land that is wider on the street side of Monterray Avenue and then narrows in the back from the northwest corner to the southwest corner at the rear of the property; that the setback of 20 feet on the Applicant's side and 20 feet on the neighbor's side on Unit No.185 to the total of 40 feet; that the existing dwelling offers an opportunity for single-level mobility living, with currently a screened-in porch on the first level; that the Applicant hopes to enclose that into a four-season room and then add a porch to have multi-seasonal use of the back of the house; that the plan presented has the proposed addition encroaching into the southwest corner between Unit No. 184 and Unit No. 185; that the Applicant purchased the Property in 2005 and has not adjusted any of it since that time; that the variances will not alter the essential character of the neighborhood; that the Applicant had an architect draw the proposed addition and it maintains the character of all the homes within the Villages of Clearwater; that the variances are the minimum variances necessary to afford relief; that the Applicant planned the changes to promote more livability within their home; that, throughout this planning process, the Applicant kept in mind the impacts on adjacent and neighboring properties within our community; that the homeowners association has submitted a letter supporting the request; that there is much more space between Unit 184 and Unit 185; that the property is almost a corner lot; that improvement will fit within the character of the neighborhood; that the neighbors at Unit 185 support the request; and that the steps are needed for access.

Mr. Williamson asked about the distance between the neighboring units and how much more

drastic the separation requirement is between their lot and Unit No. 185 than Unit No. 183; and that this creates a practical difficulty to utilize that side of their lot.

Mr. Sharp questioned whether the Applicant considered moving the structure to the other side of the home since there is a less restrictive setback and then there would not be a need for the variances.

Mr. Dennis testified that the reason they could not put the porches on that side of the home is because of the windows, HVAC system, and the electrical units that are located over there; that, if they moved the porches, then there would be this extra expense of moving the electricity, which made less sense; and that there is a tree line and large shrubs to the rear of the property.

Ms. Dennis testified that her husband has Parkinson's Disease; that the proposal will aid with first-floor living; and that the Applicant did not build the house.

Ms. Norwood stated that no variance is needed for the outside shower.

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

Mr. Williamson closed the public hearing.

Mr. Kingree moved to approve the application for Case No. 13168 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique physical conditions because of its unique shape and the significant space required between the dwelling on the side of the variances;
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 regulation at issue; and
10. The variances represent the minimum variances necessary to afford relief.

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

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

Case No. 13169 – Donald Wall, Jr. seeks variances from the corner front yard setback requirement and the maximum fence height requirement within the corner front yard setback for proposed structures (Section 115-25 and 115-185 of the Sussex County Zoning Code). The property is located on the west side of Narrows Lane and the north side of Megan Court. 911 Address: 34636 Megan Court, Lewes. Zoning District: AR-1. Tax Parcel: 234-18.00-555.00.

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

The Applicant is requesting the following variances:

- 7.5 ft. variance from the 30 feet front yard setback requirement for a proposed pool; and
- 0.5 ft. variance from the 3.5 feet maximum height requirement for a fence.

Donald Wall was sworn in to give testimony for this application.

Mr. Wall testified that he is requesting a variance to put a pool in his side yard, which the County sees as his front yard; that the home sits on a cul-de-sac facing Narrows Lane and away from Megan Court; that, if the home was placed with the front of the home facing the cul-de-sac, the backyard would have been facing his neighbor's side yard; that they felt it was more aesthetically pleasing to build the home with the front facing Narrows Lane; that the driveway and address are located on Megan Court; that the reason they are not trying to place the pool behind the home is because most of the day that area is blocked from the sun by 60 foot pine trees; that those trees not only block the sun but they produce a lot of yard debris that would fall into the pool; that all of the neighbors have been spoken to and none of them have any issues with the pool being placed in the requested location; that the homeowners association has approved this placement as long as the County approves of it; that the pool measure 18 feet wide; that they are requesting a four foot tall fence rather than the 3.5 foot tall fence that is allowed because that is the requirement for a fence around a pool; that the fence will not create any sight limitations and the only reason they are putting it in is because the County requires the four foot fence around any in ground pool; that their water, sewer, and gas lines run at an angle from the property line across Megan Court to the house and those utilities limit where the pool can be placed; that there is a 15 foot gap between the property line and the edge of paving of Megan Court; that there is 37.5 feet from the pool to the edge of paving of Megan Court; that the fence will be an aluminum fence similar to other fences in the area; that he treats Narrows Lane as the front yard; and that the fence will be 4 feet from the pool and not at the property line.

James Ayers was sworn in to give testimony about the Application.

Mr. Ayers testified that he has known Mr. Wall for over 25 years now and that he has been a great neighbor and does an excellent job of maintaining his property; that he gives his support of allowing them to have these variances granted and that he has no doubt that the yard will look great.

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

Mr. Williamson closed the public hearing.

Dr. Hitchens moved to approve the application for Case No. 13169 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique physical conditions due to the placement of the home and what is being considered the front yard;
2. The trees also create a unique condition;
3. The property cannot otherwise be developed;
4. That, due to such physical circumstances and conditions, there is no possibility that the property can be developed in strict conformity with the Sussex County Zoning Code;
5. The variances are necessary to enable reasonable use of the property;
6. The exceptional practical difficulty has not been created by the Applicant;
7. The variances will not alter the essential character of the neighborhood;
8. The variances will not substantially or permanently impair the appropriate use or development of adjacent property;
9. The variances will not be detrimental to public welfare;
10. The variances represent the least modifications of the regulations at issue; and
11. The variances represent the minimum variances necessary to afford relief.

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

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

Case No. 13170 – Barbara Higgins seeks a variance from the rear yard setback requirement for a proposed structure (Section 115-34 and 115-183 of the Sussex County Zoning Code). The property is located on the southwest side of Tee Box Blvd. 911 Address: 36360 Tee Box Blvd., Frankford. Zoning District: MR. Tax Map: 134-16.00-1920.00.

Mrs. 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 return.

The Applicant is requesting the following variance:

- 5 feet variance from the 10 feet rear yard setback for a proposed addition.

Daniel Streibig and Barbara Higgins were sworn in to give testimony for this application.

Mr. Streibig testified that he is representing the owner and the owner is requesting a variance to place a sunroom in the same location as her current patio; that the sunroom will be in the rear of the home and it will not cause any obstruction of view for anyone; that the Applicant has approval from both neighbors for the addition of this sunroom; that the homeowners association of the development has agreed that this is allowed; that the need for the variance is due to the placement of the vent for the fireplace in conjunction with the location of the sunroom; that it would be more of a project and financially burdening to pay to move the fireplace vent to make the sunroom fit within the rear setback; that the fireplace is a propane fireplace and is not easily moved; that the steps from the sunroom will come off the side of the room onto the remaining area of her paver patio; that the sunroom will project no farther than the existing patio; that the neighbor has a similar structure as this proposed sunroom; and that he is unaware of any bug problems associated with the property.

Ms. Higgins testified that she needs the sunroom because it is very hot in her backyard and she has tried the awning solution but the awning still allows too much sun to come through and she has had skin cancer more than once; that the rear property line is angled and oddly shaped; that most of the yard is the side yard of the property; that her neighbors have a similar structure and she thought this would be a solution to her not being able to utilize her own backyard; that the homeowners association does not allow additions in the side yard; that she will use part of the addition for a home office; and that the addition will be 5 feet from the rear yard property line at its closest point.

Mr. Streibig testified that the addition will measure 12 feet by 15.7 feet.

The Board discussed the actual distance for the variance and if it is more than just the five feet that was advertised as the drawing does not look to be to scale and if the variance is more than the five that is being requested they would need to return for another hearing; that the Board and the Applicant discussed the placement of the room and where it fell in terms of the distance and decided that the farthest point from the house would bring the new addition five feet into the setback.

John Haday was sworn in to give testimony in support of the Application.

Mr. Haday testified that he is the Applicant's husband and the need for the sunroom is because of the amount of sunlight that the rear yard gets and Ms. Higgins needs to remain out of the sun due to her health issues; that their property is one of a few that receives that amount of sunlight that comes through all day long; and that neighbors support the Application.

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

Mr. Williamson closed the public hearing.

Mr. Kingree moved to leave the application open for Case No. 13170 for the specific purpose of receiving a survey from the Applicant showing the correct measurements of the requested variances. The survey is to be submitted by May 1, 2026, to the Planning and Zoning Department and the case will be an item of old business at the Board of Adjustment meeting on May 4, 2026.

Motion by Mr. Kingree, seconded by Dr. Hitchens, carried that the **record be left open for a limited purpose** for the reasons stated. Motion carried 5 - 0.

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

Case No. 13172 – Christopher & Coleen Popp seeks variances from the rear and side yard setback requirements for existing structures (Section 115-34 and 115-183 of the Sussex County Zoning Code). The property is located on the southeast side of Pine Street. 911 Address: 29102 Pine St., Milford. Zoning District: MR. Tax Map: 230-17.00-116.00.

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

Mrs. Norwood noted that the existing dwelling on the property is considered non-conforming.

The Applicants are requesting the following variances:

- 8.7 feet variance from the 10 feet side yard setback on the northwest side for an existing deck;
- 8 feet variance from the 10 feet side yard setback on the northwest side for an existing deck;
- 1 foot variance from the 10 feet side yard setback on the southeast side for an existing garage;
- 3.4 feet variance from the 10 feet rear yard setback for an existing garage;
- 1 foot variance from the 10 feet rear yard setback for an existing garage
- 6 feet variance from the 10 feet side yard setback on the southeast side for an existing garage addition; and
- 5.2 feet variance from the 10 feet side yard setback on the southeast side for an existing garage addition.

Chris Popp was sworn in to give testimony for this application.

Mr. Popp testified that the property was surveyed in January and the survey showed that the deck was in violation of the setback requirements; that the deck has been part of the original dwelling per photos taken between 1965 and 1970; that the deck was also in photos that the Applicants took while looking at the home to buy it in 2014; that the home was purchased with the deck and garage in place and that there was no place to add anything to the yard but the lean-to was added to the back of the garage; that the property has a uniqueness due to the placement of the current structures and the placement of the septic tanks which limit the availability to do much without needing a variance; that most of the issues on the property were inherited from the previous owners; that he made the mistake of placing the lean-to too close to the setback line; that there is no homeowners association in the neighborhood and the current home fits in with all the others within the neighborhood; that the property has some flooding issues in the area near the septic which is why the lean-to was placed where it was because of the limitations of being able to build in the interior of the back yard; that the property is near Prime Hook Beach; that the lean-to was constructed 5-6 years ago between two windows in the garage; that he has received no complaints about the structures; and that the house is elevated on blocks to help with flooding issues.

Peter Goldring and Carol Goldring were sworn in to give testimony to this application. They testified that their position is neutral but they had some questions about the case.

Mr. Goldring testified that the only concern he had was if the Applicants were granted these variances and someone comes along and buys the property down the line and tears down the current structures are new structures granted the same variances or do they have to build within the property setbacks.

Mr. Sharp stated that what the Applicants are seeking are variances for these structures here and, if those structures get torn down, the Applicants, or whoever owns the property and wants to do something with it, will have to either come back to the Board for variances for their new structures, in which case there would be a new public hearing, or they are going to have to be in compliance with the Sussex County Zoning Code; that, if you have a non-conforming structure and you put an addition on the non-conforming structure, you are going to need to come before this Board for a variance unless the addition is within the building envelope itself.

Mrs. Goldring testified that the only concern is that the Applicants is granted these variances and then the property is sold off and someone can come through and put a multi-million-dollar mega mansion in the same variances because they were granted today; and that she fine with the existing structures though.

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. 13172 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique physical conditions because the property lines that have been drawn have changed drastically since the 1960s;
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 Applicants;
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. Lovenguth, seconded by Dr. Hitchens, 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, Dr. Hitchens – yea, Mr. Lovenguth - yea and Mr. Williamson – yea

ADDITIONAL BUSINESS

Meeting adjourned at 7:29 p.m.