

MINUTES OF MARCH 24, 2025

The regular meeting of the Sussex County Board of Adjustment was held on Monday, March 24, 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 Mr. Jeff Chorman presiding. The Board members present were Dr. Kevin Carson, Mr. Shawn Lovenguth and Mr. John Williamson. Also, in attendance were Mr. James Sharp, Esquire – Assistant County Attorney, and staff members Ms. Jennifer Norwood – Planning and Zoning Manager, Ms. Hannah Wyatt – Recording Secretary.

The Pledge of Allegiance was led by Mr. Chorman.

Motion by Dr. Carson, seconded by Mr. Lovenguth and carried unanimously to approve the agenda. Motion carried 4 – 0.

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

Motion by Mr. Williamson, seconded by Dr. Carson and carried unanimously to approve the minutes for January 27, 2025.

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

Motion by Mr. Lovenguth, seconded by Dr. Carson and carried unanimously to approve the Finding of Facts for January 27, 2025.

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

PUBLIC HEARINGS

Case No. 13044 – Juan and Marisela Serna seek a variance from the lot width requirement for a proposed lot (Section 115-25 of the Sussex County Zoning Code). The property is located on the north side of Woodland Ferry Road and east of Ship Builders Drive. 911 Address: 6869 Woodland Ferry Road, Seaford. Zoning District: AR-1. Tax Map: 132-11.00-20.00

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received two letters of support and zero opposition to the Application, and zero mail returns. The Applicants are requesting a 17.09 feet variance from the 150 feet lot width requirement for a proposed parcel.

Mr. Juan Serna and Ms. Marisela Serna were sworn in to give testimony for this application.

Ms. Serna testified that they found this property for sale a little over two years ago; that, when they purchased the property, they asked if it could be subdivided and they were told yes; that, after

they purchased the property, they were then told the subdivision was not possible; that they purchased the property based on that representation; that, if they are not granted this variance, it would create a financial hardship as they have purchased this for their kids; that the prices of properties are higher and it will not be possible for them to purchase another property; that the lot right down the street is very similar in size to what the size of their lot would be; that their daughter would live in the existing house and their son would live on the vacant lot; that each lot will be just under 1 acre; that each lot would have a separate entrance; that the lots cannot use the same driveway because extending the current drive way would put it across the septic; that the new lot would have its own septic and it has already been tested and planned out; that the septic system is located behind the house; that they did not create the original lot; that they purchased the lot 2 years ago; and that the lot is deeper than it is wide.

Mr. Joseph Marvasi professional engineer was sworn in to give testimony for this application.

Mr. Marvasi testified that the Applicants have received a letter of no objection from DelDOT; that the difficulty is not being created by the Applicants because the house, septic, and well were already there so they could not extend the driveway all the way around and they did not pick the location of the house; that they tried to divide the lots somewhat equally; that this seems to be the path of least resistance to get this approved; that, based on the architecture of the home, it appears that house is from 1930s; that Parcel 20.02 was created from the property about 10 years ago; and that the existence of the farmhouse made subdivision challenging.

Mr. Emmanuel Serna was sworn in to give testimony for this application.

Mr. Serna testified that he is the Applicants' son; that he has never known a hardship as his parents have worked hard to provide for him; and that he is in favor of this application.

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

Mr. Chorman closed the public hearing.

Mr. Williamson moved to approve the application for Case No. 13044 for the requested variance, pending final written decision, for the following reasons:

1. The exceptional practical difficulty was not created by the Applicants as they purchased the property after detrimentally relying on information from their realtor;
2. The variance will not alter the essential character of the neighborhood;
3. The property has unique physical conditions due to location of the original septic system and trees; and
4. The variance sought is the minimum variance necessary to afford relief.

As part of the motion, Mr. Williamson directed that Mr. Sharp send a letter to the Applicants' realtor.

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

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

Case No. 13045 – Michael and Maria Calandra seek variances from the front yard setback requirements for proposed structures (Section 115-34 and 115-182 of the Sussex County Zoning Code). The property is located on the west side of Salty Way West located within the Keen-Wik West Subdivision. 911 Address: 37830 Salty Way West, Selbyville. Zoning District: MR Tax Map: 533-19.07-31.01

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application, and zero mail returns. The Applicants are requesting a 9.9 feet and a 7.9 feet variance from the 30 feet front yard setback requirement for a proposed addition and a 16.9 feet and 15.2 feet variance from the 30 feet front yard setback requirements for a 2nd floor deck.

Mr. William Stubbs, Mr. Michael Calandra, and Ms. Maria Calandra were sworn in to give testimony for this application.

Mr. Stubbs testified that Salty Way West is a cul-de-sac that curves; that the property is adjacent to the cul-de-sac; that the Applicants are seeking variances from the front yard setback; that the other house is two hundred feet or more away; that it would not be practical to put the garage in the back and it made more sense to put it next to the other garage; that the property is unique because the loop in the road cuts in the front yard five feet; that the uniqueness of the property created the exceptional practical difficulty; that the homeowners association requires a 20 foot front yard setback but the County requires a 30 foot front yard setback; that the variances will not alter the character of the neighborhood as there are many houses that are bigger than what they are proposing on this street; that the variances requested are the minimum variances necessary to afford relief; that additional bedroom space is needed; that, if the garage and bedroom were narrower, they would likely not be useable; that the shed will be removed and the garage would go in its place; that they do not believe it would cause a visual hardship on the loop for drivers; that the house will be a nice house; that the house uses central water and sewer; that there is a 15 foot gap between the edge of paving of the road and the front property line; that there will be approximately 35-40 feet from the addition to the edge of paving; that he looked at various preliminary plans and this plan seems to best fit his clients' needs the best; that he was limited as the house was already there; and that the deck could be placed behind the garage but it would not be aesthetically pleasing as being on the side of the house.

Mr. Calandra testified that the Applicants applied for homeowners association approval and the association is waiting the Board's decision; that the addition is to allow for additional bedrooms in the home; that the area above the garage is unusable; that there is no neighbor across the street; that neighbors are okay with the proposal; that the Applicants did not build the house; that there is no problem with flooding; and that the water and sewer location limit construction on the north side of the lot.

Ms. Calandra testified that the addition will not block neighbor views; and that placing the addition at another location is not desirable because it takes away from aesthetics of the property.

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 deny the application for Case No. 13045 for the requested variances, pending final written decision, for the following reasons:

1. The exceptional practical difficulty is being created by the Applicants.

Motion by Dr. Carson, seconded by Mr. Williamson, carried that the **variances be denied for the reasons stated**. Motion carried 4 - 0.

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

Case No. 13052 - Jim and Michelle Lattanzi seeks variances from the front yard setback requirement, separation distance requirements, and lot coverage requirement for proposed structures (Section 115-25 and 115-172 of the Sussex County Zoning Code). The property is located South of Harbor Road within the Malone's Bayside Manufactured Home Park. 911 Address: 21 Harbor Road, Millsboro. Zoning District: AR-1. Tax Parcel: 234-25.00-6.00-42880 Lot 27

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received no correspondence in support or opposition to the Application, and one (1) mail return. The Applicants are requesting a 208.2 square feet variance from the maximum allowable lot coverage requirement of 1,001 square feet, 12 feet and 13 feet variances from the 20 feet separation requirement between units from the existing dwelling on Lot 8 for a proposed dwelling, and a 2.7 feet variance from the 5 feet front yard setback requirement for a proposed porch.

Mr. Sharp noted to the Board that the Board previously rendered a decision regarding this property with an application last year and denied a variance request; that, before the Board can render a decision, the Board must first determine if the application is substantially different from the prior application or if the conditions of the property have substantially changed.

Mr. Jim Lattanzi was sworn in to give testimony for this application.

Mr. Lattanzi testified that the Board previously denied his variance request; that the prior request included a house that was located over the property line; that he has pulled the proposed house back within the building restriction line; that the proposed house is farther away from the road than 80% of the homes in the park; that the plan has been reconfigured and the house no longer extends over the property line; and that there has been no change in the conditions affecting the property but the plan has changed.

Dr. Carson made a motion to move forward with the Application because the Applicant has demonstrated a substantial change in the proposal before the Board.

Motion by Dr. Carson, seconded by Mr. Lovenguth, carried that the **application be allowed to proceed as the Applicants for the reasons stated.** Motion carried 4-0.

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

Mr. Lattanzi testified that he owns the house located closest to this lot; that he maintained a 20 foot separation distance from Lot 26; that the proposed home is a couple of years old; that he has obtained HOA approval; that neighbors support the request; that water and sewer are on site; that there is a gap between the edge of paving and the front property line; that most of the traffic is from golf carts, bikes, or pedestrians walking; that there are no line-of-sight concerns; that the speed limit on Harbor Road is 5 mph; that he has plenty of parking on the property; that the community has a big parking lot at the entrance for overflow parking if needed; that the dwelling will be 2.7 feet from the property line in the front yard; that the porch will be 6.2 feet from the front yard; that the house will be elevated; and that the HVAC condenser will be placed under the house so it will not encroach anywhere else.

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 approve the application for Case No. 13052 for the requested variances, pending final written decision, for the following reasons:

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

Motion by Mr. Williamson, seconded by Dr. Carson, carried that the **variances be approved**

for the reasons stated. Motion carried 4-0.

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

Case No. 13053 – Matthew and Colleen Schweitzer seeks variances from the front and side yard setback requirements for existing and proposed structures. (Sections 115-34, 115-182 and 115-183 of the Sussex County Zoning Code). The property is located on the northeast side of Snow Goose Road. 911 Address: 9643 Snow Goose Road, Milford. Zoning District: MR. Tax Map: 230-17.00-167.00

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received zero (0) letters in support of the Application, zero (0) letters in opposition to the Application, and zero (0) mail return. The Applicants are requesting a 14.8 feet and 12.4 feet variance from the 30 feet front yard setback requirement for a proposed screen porch and 3.1 feet and 2.3 feet variances from the 5 feet side yard setback requirement on the south side for a proposed screen porch.

Mr. Mark Redden was sworn in to give testimony for this application.

Mr. Redden testified that the existing dwelling is a rancher; that the dwelling was placed in an awkward location on the property; that the dwelling predates the Sussex County Zoning Code; that the house is one of two houses on Snow Goose Lane and the other house is even closer to the property line than this one; that only two houses are on this street so the variances will not affect the character of the neighborhood; that the septic sits between the shed and the house which makes it hard to build anywhere else on the property; that the Applicants propose to construct a wrap-around porch; that the porch will be no closer to the front yard property line than the existing deck; that the porch will not be the full width of the house; that this is not created by the Applicants as they bought the house this way; that it would be considered a small lot in today's Zoning Code; that they are in need of the porch as the bugs in this area make it difficult for them to enjoy the property in the warm months; that they believe the variances requested are the minimum variances necessary as they are not going any farther into the setback than the existing deck; that Lot 48 is vacant; that the variances will not alter the character of the neighborhood as they are not making many changes just adding the porch which is where the deck currently sits; that Snow Goose Road is lightly traveled; and that the steps coming off the deck will project about 2 feet so they will not need variance.

Ms. Norwood noted that the property is a small lot under the Small Lot Ordinance.

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. 13053 for the requested variances, pending final written decision, for the following reasons:

1. The Applicants have met the criteria for granting a variance;
2. The property is unique due to its physical conditions; and
3. The exceptional practical difficulty was not created by the Applicants.

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

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

Case No. 13054 – Michael Turssline seeks variances from the front, side and rear yard setback requirements for existing and proposed structures. (Sections 115-25, 115-182 and 115-183 of the Sussex County Zoning Code). The Property is located on the north side of Calais Court and to the east of Penn Street. 911 Address: 33523 Calais Court, Dagsboro. Zoning District: AR-1. Tax Map: 134-7.00-66.00

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received zero correspondence in support or opposition to the Application, and zero mail returns. The Applicant is requesting 27.4 feet and 26.1 feet variance from the 30 feet front yard setback for a proposed deck, a 19.4 feet variance from the 30 feet front yard setback for an existing dwelling, a 12.9 feet and 11.4 feet variance from the 15 feet rear yard setback for an existing dwelling and a 1.8 feet and 1.5 feet variance from the 5 feet side yard setback on the east side for an existing dwelling.

Mr. Mark Redden, who was previously sworn in, appeared to give testimony for this application.

Mr. Redden testified that this is the smallest lot he has ever worked with and, if all setbacks were followed, it would leave about 100 square foot to use; that this house is in the flood zone and needs to be raised up; that this area has small houses on small lots; that Calais Court only serves the owners and the neighbor across the street as the other houses front a different road; that the Applicant did not create the difficulty because it was inherited and was like this when received it; that the additional space will make the home more functional; that they looked at adding a floor but it was not feasible; that the variances will not alter the character of the neighborhood because all the houses are small and on a small lot; that parking and storage will go underneath the house after raised; that the requested variances are the minimum variances necessary to afford relief; that the home is not repairable under FEMA regulations; and that condensing units will be mounted on the wall.

Mr. Michael Turssline was sworn in to give testimony for this application.

Mr. Turssline testified that the well and septic tank are on property; that heat and air conditioning is attached to the house as they use mini splits; that the well is located in the driveway;

that the outdoor shower is being removed; that this house was purchased by his parents in the 1950s; and that the shed on the property will be torn down.

Ms. Norwood noted that a variance will be needed for the HVAC also.

Mr. Redden testified that he will provide a plan showing the measurements of the HVAC; that the deck will be an open deck; that the Jahnigen property consists of wetlands; that there is a fence at the terminus of Calais Court; and that large trucks back down Calais Court.

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 approve the application for Case No. 13054 for the requested variances, pending final written decision, for the following reasons:

1. The Applicant has met the criteria for granting a variance;
2. The Property is unique due to its size and physical conditions;
3. The exceptional practical difficulty was not created by the Applicants;
4. The dwelling needs to be raised;
5. The variances will not alter the essential character of the neighborhood; and
6. The variances sought are the minimum variances necessary to afford relief.

As part of his motion, Mr. Williamson requested that the Applicant provide specifications for the HVAC so that the proper variance for that structure can be determined by staff.

Motion by Mr. Williamson, seconded by Mr. Lovenguth, carried that the **variances be approved for the reasons stated**. Motion carried 4 - 0.

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

Case No. 13055 – Coastal One Properties seeks a special use exception for an off-premises electronic message center. (Section 115-161.1 and 159.5 (B) of the Sussex County Zoning Code). The property is located on the north side of Coastal Highway. 911 Address: 19563 Coastal Highway, Rehoboth. Zoning District: C-1. Tax Map: 334-13.00-325.33

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received zero correspondence in support or opposition to the Application, and zero mail returns. The Applicant is requesting a special use exception for an off-premises electronic message center.

Mr. Jason Dean was sworn in to give testimony for this application.

Mr. Dean testified that, on July 10, 2023, the Board approved a static billboard on the property; that the Applicant later explored placing an electronic message center; that the DelDOT requirements only allow for an electronic message center on the south facing side of the side; that DelDOT has issued a letter of no objection; that the sign meets all setbacks; that the sign has a brightness control system and will shut down on its own if it malfunctions; that the sign was never erected in 2023 but it is engineered and ready to be erected; that the sign will measure 12' x 48' and 35 feet tall; that there are no changes in the location, size, or height of the sign from what was approved in 2023; that they are just here for digital approval; that there has been no opposition to the billboard; that Pet Smart and Chic-Fil-A are on the site; that Tanger Outlets are to the south; that a restaurant is on the property to the north; that the area is commercial in use; and that the property is located adjacent to Route 1.

The Board found that no parties 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. 13055 for the requested special use exception, pending final written decision.

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

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

ADDITIONAL BUSINESS

Meeting adjourned at 7:52 p.m.