

## **MINUTES OF MARCH 9, 2026**

The regular meeting of the Sussex County Board of Adjustment was held on Monday, March 9, 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. Nate Kingree, Mr. Chuck McClure, and Mr. John Williamson. Mr. Shawn Lovenguth was not present. Also, in attendance were Mr. Ryan Adams, Esquire – Assistant County Attorney, and staff members Ms. Jennifer Norwood – Planning and Zoning Manager, and Ms. Jessica Iarussi – Recording Secretary.

The Pledge of Allegiance was led by Mr. Williamson.

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

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

Motion by Mr. Kingree, seconded by Dr. Hitchens and carried unanimously to approve the Minutes for the November 17, 2025, meeting. Mr. McClure abstained from this motion. Motion carried 3 – 0.

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

Motion by Dr. Hitchens seconded by Mr. Kingree and carried to approve the Findings of Facts for the November 17, 2025, meeting. Mr. McClure abstained from this motion. Motion carried 3 – 0.

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

Motion by Dr. Hitchens, seconded by Mr. Kingree and carried unanimously to approve the Minutes for the December 8, 2025, meeting. Mr. McClure abstained from this motion. Motion carried 3 – 0.

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

Motion by Mr. Kingree seconded by Dr. Hitchens and carried to approve the Findings of Facts for the December 8, 2025, meeting. Mr. McClure abstained from this motion. Motion carried 3 – 0.

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

Motion by Dr. Hitchens, seconded by Mr. Kingree and carried unanimously to approve the Minutes for the December 15, 2025, meeting. Mr. McClure abstained from this motion. Motion carried 3 – 0.

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

Motion by Mr. Kingree seconded by Dr. Hitchens and carried to approve the Findings of Facts for the December 15, 2025, meeting. Mr. McClure abstained from this motion. Motion carried 3 – 0.

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

Motion by Dr. Hitchens, seconded by Mr. Kingree and carried unanimously to approve the Minutes for the January 5, 2026, meeting. Mr. McClure abstained from this motion. Motion carried 3 – 0.

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

Motion by Mr. Kingree seconded by Dr. Hitchens and carried to approve the Findings of Facts for the January 5, 2026, meeting. Mr. McClure abstained from this motion. Motion carried 3 – 0.

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

### **OLD BUSINESS**

**Case No. 13156 – Recordo and Veronica Nock** seek variances from the rear yard setback requirement for an existing structure (Section 115-25 and 115-183 of the Sussex County Code). The property is located on the east side of Chaplains Chapel Road. 911 Address: 19614 Chaplains Chapel Road, Bridgeville. Zoning District: AR-1. Tax Map: 430-23.00-44.03.

Ms. Norwood presented the Application which was tabled at the Board's prior meeting.

Mr. McClure abstained from participating in the discussion and vote on this application.

The Board discussed the Application.

Mr. Williamson closed the public hearing.

Dr. Hitchens moved to approve the application for Case No. 13156 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique physical conditions;
2. The contractor made an error and it is costly to move the structure;
3. The exceptional practical difficulty is due to such conditions;
4. The property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code;
5. The variances are necessary to enable the reasonable use of the property;
6. The exceptional practical difficulty is not being created by the Applicant;
7. The variances will not alter the essential character of the neighborhood;
8. The variances will not impair the uses of neighboring properties;
9. The variances will not be detrimental to the public welfare;
10. The variances represent the least modifications possible of the regulations at issue; and
11. The variances sought are the minimum variances necessary to afford relief.

Motion by Dr. Hitchens, seconded by Kingree, carried that the **variances be approved** for the reasons stated. Motion carried 3-0.

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

### **PUBLIC HEARINGS**

**Case No. 13154 – Michael Horsey, Sr.** seeks variances from the corner front yard setback requirement and the maximum fence height within the corner front yard setback for existing structures (Section 115-25 and 115-185 of the Sussex County Zoning Code). The property is located on the west side of Seashore Highway and the north side of Dublin Hill Road. 911 Address: 6580 Seashore Highway, Bridgeville. Zoning District: AR-1. Tax Parcel: 131-6.00-12.00.

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

The Applicant is requesting the following variances:

- 2.5 feet variance from the 3.5 feet maximum height for a fence in a corner front yard setback; and
- 38.4 feet from the 50 feet poultry house setback requirement.

Michael Horsey was sworn in to give testimony for this application.

Mr. Horsey testified that he is seeking a six foot fence in height for the corner front yard of his property as his backyard is adjacent to a roadway and he wants to prevent his dogs and children from entering the road while playing in the yard; that his dogs are capable of jumping over the 3.5 foot fence and he is afraid that they will escape and get hit by a car; that he has already had a dog get

out and get hit and would like to prevent any future accidents from happening; that, not only do they have dogs and children, but they currently are raising chickens and would like to keep them enclosed too; that the reasons for the variance are as follows; that the property is oddly shaped and sits on the corner of two busy roads and the fence provides them with a safe place to utilize the backyard; that, due to the shape of the property, the backyard is the safest place for the Applicant's children and animals to play and reside safely; that, to ensure their safety, the Applicant is seeking a variance to approve a six-foot fence along with Dublin Hill property line; that the corner front setback limits the fence height to 3.5 feet; that, additionally, the Applicant has a small chicken coop located in the back yard; that the rear yard is the best place to place the chicken coop due to the unique shape of the property; that the Applicant also took his neighbors into consideration when placing the chicken coop because he did not want the possible smell of chickens to disrupt the daily routine and cause any issues; that the need for the variances was not created by the Applicant; that, within proximity to Seashore Highway and Dublin Hill Road, there is heavy traffic, including tractor trailers, foreign vehicles, and everyday motorists; that, since moving in on October 19, 2021, there has been multiple accidents on this intersection, with one accident crashing into the front yard, knocking out the front steps to the Applicant's dwelling; that the Applicant has also lost two of his beloved dogs due to them being hit by cars; that, due to these incidents, the Applicant is seeking approval for a six-foot fence to secure the corner front yard to ensure the safety of his children and animals; that, additionally, the Applicant wants to place the chicken coop away from his neighbor's house and in a safe location; that the variances will not alter the character of the neighborhood; that the variance requests are the minimum requests necessary to afford relief; that the fence will be a 6 foot tall privacy fence to provide an effective and secure backyard barrier for the safety of his children and animals; that the chicken coop will remain in its existing location as proposed; that he built the chicken coop; that the fence has been constructed; that the fence is a vinyl fence; that there is no neighbor nearby; that the property is adjacent to the road and a field; that the fence does not obstruct views for cars at the intersection; that he has received no complaints about the fence; and that the fence does not start until the front yard setback of the property which is forty feet from the corner of the property and the intersection where the stop sign is.

Mrs. Norwood stated that there was one written letter in response to this application, and it stated that the member of the opposition was unable to attend the hearing in person but was concerned that the fence would limit the sight distance of drivers emerging from Dublin Hill Road.

Mr. Horsey testified as to the location of the fence; that the fence is a good distance from the stop sign; and that the fence was installed last year.

Mrs. Norwood stated that the fence needs the variance because it is within the 15 feet corner front yard setback area.

Mr. Horsey testified that a 6 feet tall fence was needed so that his dog could not jump the fence; that he looked at a chain link fence but his dog can climb a fence; and that he was concerned about the wear and tear of a chain link fence.

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. 13154 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique physical conditions because of the corner front yard which limits the height possibility;
2. The fence will not create visibility issues;
3. The fence needs to be taller due to the Applicant's animals;
4. The exceptional practical difficulty is due to the unique conditions;
5. There is no possibility that the property can be developed in strict conformity with the Sussex County Zoning Code;
6. The variances are necessary to enable the reasonable use of the property;
7. The exceptional practical difficulty is not being created by the Applicant;
8. The variances will not alter the essential character of the neighborhood;
9. The variances will not be detrimental to the public welfare;
10. The variances will not impair the use or development of neighboring properties;
11. The variances represent the least modifications of the regulations at issue; and
12. The variances sought are 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 4-0.

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

**Case No. 13158 – Suzanne Stark Bienert** seeks variances from the rear and side yard setback requirement for a proposed structure (Section 115-34, 115-183 of the Sussex County Zoning Code). The property is located on the east side of Sylvan Vue Drive. 911 Address: 34582 Sylvan Vue Dr., Dagsboro. Zoning District: MR. Tax Map: 134-11.00-707.00.

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

The Applicant is requesting the following variances:

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

Suzanne Stark Bienert was sworn in to give testimony for this application.

Ms. Bienert testified that she thought the setbacks were 5 feet in the side yard and rear yard; that the pole building will measure 40 feet by 20 feet; that the property is unique due to its triangular shape; that the septic system is located in the middle of the rear yard; that the pole building cannot be located elsewhere due to the septic system and the house; that the stairs to the house limit where the pole building can be located; that she has a long-bed, 20 foot truck; that she has a boat as well; that the pole building will house the boat and truck; that there is a development which will be located on the property behind her lot; that there will be a walking trail and stormwater pond on the property behind her house; that the pontoon boat is 30 feet long; that the boat will have a trailer; that the pole building will house a boat and two vehicles; that she has been before the Board for a prior variance; that she had a builder construct the home; that the home was placed in its location due to a surveyor error; that the septic system was placed in the middle of the lot by a prior owner in the 1980s; that the septic system created a severe limitation; that there are 3 drain fields for the septic system; that the pole building cannot be moved farther north due to the septic system; that Lot 9 is vacant; that the owner of Lot 9 was aware of the hearing but did not get back to her with comments on the Application; and that she could place the pole building 5 feet from the side yard property line.

Todd Williams was sworn in to give testimony for this Application.

Mr. Williams testified that his daughter owns Lot 9; that they are the only ones affected by the variances; that they do not object to a setback of 5 feet from the side yard; and that the property to the rear of the Applicant's lot is currently a large vacant property that may be developed in the future.

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. 13158 for the variances of 5 feet from the side yard and 3 feet from the rear yard, pending final written decision, for the following reasons:

1. The property has unique physical conditions due to the septic system being placed in the middle of the yard;
2. The exceptional practical difficulty is due to such conditions;
3. The property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code;
4. The variances are necessary to enable the reasonable use of the property;

5. The exceptional practical difficulty is not being created by the Applicant;
6. The variances will not alter the essential character of the neighborhood;
7. The variances will not impair the development or appropriate uses of neighboring properties;
8. The variances will not be detrimental to the public welfare;
9. The variances represent the least modifications of the regulations at issue; and
10. The variances sought are the minimum variances necessary to afford relief.

Motion by Dr. Hitchens, seconded by Mr. Kingree, carried that the **variances be approved with modification** for the reasons stated. Motion carried 3 - 1.

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

Mr. Williamson stated that he believed the exceptional practical difficulty was being created by the Applicant.

**Case No. 13159 – Clifton Parker** seeks variances from the agricultural setback requirement for existing structures (Section 115-20 and 115-4 of the Sussex County Zoning Code). The property is located on the west side of Pyle Center Road. 911 Address: 34816 Pyle Center Rd., Frankford. Zoning District: AR-1. Tax Map: 533-5.00-55.00.

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received one letter in support of and no letters opposition to the Application and zero mail returns.

The Applicant is requesting the following variances:

- 35 ft. variance from the 50 feet agricultural building setback requirement for an existing poultry house; and
- 35 ft. variance from the 50 feet agricultural building setback requirement for an existing manure shed.

Clifton Parker was sworn in to give testimony for this application.

Mr. Parker testified that he is a farmer; that he purchased the property with his wife; that they have farmed the property for 25 years; that he was unaware of the zoning requirements; that he agreed to a 15 foot setback around the buildings with the Evans Family; that the only affected property owners are the Evans Family; that no other neighbors are affected; that the Evans Family agrees to the variances; that the property will remain in agricultural for the foreseeable future; that there are no changes to what is on the property; that the structures exist; that the structures have been on the property for many years; that Lisa Evans' father previously owned the property and he constructed the manure shed and poultry house approximately 15 years ago; that the property

was not surveyed at that time; that the issue arose when he purchased the property and a survey was completed; that he purchased the property 3 years ago; that he discovered the need for the variances after the survey was completed; and that the property has been used for farming and poultry for over 60 years.

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. 13159 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique physical conditions as it has been laid out this way for many years;
2. The exceptional practical difficulty is due to such conditions;
3. The property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code;
4. The variances are necessary to enable the reasonable use of the property;
5. The exceptional practical difficulty is not being created by the Applicant;
6. The variances will not alter the essential character of the neighborhood;
7. The variances will not impair the development or appropriate uses of neighboring properties;
8. The variances will not be detrimental to the public welfare;
9. The variances represent the least modifications of the regulations at issue; and
10. The variances sought are 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 4 - 0.

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

**Case No. 13160 – Daniel A. Eby** seeks a variance from the side yard setback requirement for a proposed structure (Section 115-25 and 115-183 of the Sussex County Zoning Code). The property is located on the south side of Beach Highway (SCR 16). 911 Address: 12780 Beach Highway, Greenwood. Zoning District: AR-1. Tax Map: 430-6.00-47.24.

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

The Applicant is requesting the following variances:

- 8 feet variance from the 15 feet side yard setback requirement on the west side for a proposed pole building.

Daniel Eby was sworn in to give testimony for this application.

Mr. Eby testified that the property is 1.93 acres; that the property is only 150' wide but is deeper; that the property has a pond which is shared by other properties; that the pond limits the buildable area; that they purchased the property in 2015; that the drainage was set up at that time; that the pole building will not affect the drainage of the property; that the pole building will be used to store vehicles, equipment, and a boat; that they want to keep those belongings out of sight; that the pole building will help keep an neat and orderly appearance; that the property cannot otherwise be developed; that the proposed location of the pole building will allow for access to the driveway; that the pond in the rear of the lot does not allow for the pole building to be placed there; that there is a septic drain field on the property; that the property is also serviced by wells; that the west side of the lot is the only flat, usable area where a pole building could be located; that the house was built in 2006; that the pond was on the property prior to purchase; that the property is not located in a development; that his neighbors to the east and west approve of the requests; that the variance is the minimum variance necessary to afford relief; that the driveway could not altered due to the septic drain field; that he is a member of the Delaware State Police and intends to keep his work vehicle in the pole building; that the pond takes up a large part of the rear yard; that there is a dock that provides access to the rear yard; that his neighbor also allows him access to the rear yard; that he had to have new wells installed after purchasing the property; that they removed a lean-to from the proposal; that the pole building needs to be this size to fit boat, vehicles, and equipment; and that the pole building cannot be located closer to the center of the lot.

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. 13160 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique physical conditions as due to its narrow shape and the drain field and pond;
2. The exceptional practical difficulty is due to such conditions;
3. The property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code;
4. The variance is necessary to enable the reasonable use of the property;
5. The exceptional practical difficulty is not being created by the Applicant;
6. The variance will not alter the essential character of the neighborhood;
7. The variance will not impair the development or appropriate uses of neighboring properties;

8. The variance will not be detrimental to the public welfare;
9. The variance represents the least modification of the regulation at issue; and
10. The variance sought is the minimum variance necessary to afford relief.

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

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

**Case No. 13162 – The Evergreene Companies, LLC** seeks a variance from the front yard setback requirement for an existing structure (Section 115-34 and 115-182 of the Sussex County Zoning Code). The property is located on the west side of Maple Lane. 911 Address: 38310 Maple Lane, Selbyville. Zoning District: MR. Tax Map: 533-19.12-110.00.

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

The Applicant is requesting the following variances:

- 5 foot variance from the 30 feet front yard setback for an existing dwelling.

Steve Fuller was sworn in to give testimony for this application.

Mr. Fuller testified that the Applicant requests a variance of five feet from the thirty foot front yard setback for the placement of a new home; that this home was purchased with the assumption that the County would allow for this variance as they have done this in the past with several other homes in Keen-Wik; that the homeowner association regulations requires setbacks of 20 feet from the rear and 25 feet from the front but the County setback is 30 feet from the front; that they have updated the floor plan and minimized the space to their best ability in order to accommodate those setbacks but were requesting the reduction in the front to keep home within the standards of the neighborhood; that the specific reasons for their variance request are as follows:

1. Uniqueness of the property: That the HOA requires a 20-foot rear setback, which exceeds Sussex County standards; that a 5-foot reduction in the front setback, reducing it to 25-feet, will offset the irregularity while remaining compliant with the HOA; that the HOA documents specifically allow a front setback of 25 feet and there have been other variances awarded on this street in 2021.
2. Cannot otherwise be developed: That the house has already been modified to the maximum extent possible and still requires an additional five feet from the front setback to fit.

3. Not created by the applicant: That the lot was purchased with these existing dimensions and setbacks already in place.
4. Will not alter the essential character of the neighborhood: that other houses in the neighborhood already exist with a 25-foot front yard setback, which also aligns with the HOA's front setback requirement; that both the County and the HOA have approved of a 25-foot setback multiple times in the past.
5. Minimum variance: that a minimum five-foot variance is required, even after making the maximum possible floor plan modifications, for the home to fit on the lot.

Tim Naughton was sworn in to give testimony for this application.

Mr. Naughton testified that when they purchased the house it was in disrepair and was torn down quickly and this house was drawn up to replace it; that there are very few lots in Keen-Wik and they come through and tear down the old homes and build new ones in their place; that the home is already the smallest floor plan that they could come up with for the lot size; that there is not much more that can be sized down on this home to keep it in similar to the other homes on the street; that they do not have a contract on the property yet; that the prior home was approximately 2,600 square feet and this one is close to that in size; that, in order to keep this home within the comparable range of homes in the neighborhood, this was the smallest floor plan they could come up with; and that the home will have a 2 car garage underneath the dwelling to allow for additional parking for guests on the lot.

Mr. Williamson questioned why the home would need a variance if they were starting with a clean slate and can build the home within not only Keen-Wik's guidelines but the County's also; that what distinguishes this lot and home to make it unique enough to require a variance; and that, once you tore down the home, why would the HOA rules and regulations be abided by but not the County's regulations?

Mr. Naughton testified that they assumed that since the County had granted variances in the past for the reduced front yard setback and they had the "OK" from the Keen-Wik development that they would place the structure at the 25 foot setback instead of the 30 feet that is required by the County; that this was a quick purchase with the idea that the home design would fit within the neighborhood characteristics; that the lot itself is very narrow compared to some of the other lots found within Keen-Wik and because of this they are limited on how wide they can construct the home so it would be smarter to ask for one variance up front rather than asking for more than that; that it would not be within the characteristics of the neighborhood to put a smaller house but a smaller home could absolutely be constructed on the lot; that there are a lot of older homes being replaced with newer ones within the development and they each have a certain design that fit with the larger homes; that it would actually make the home stand out if they were to downsize as that would not go with the conformity of the neighborhood; that the neighborhood is driven by lot values and placing a small house would bring down the market for the rest of the neighborhood; that they have purchased and rebuilt three other homes within the development and had variances approved in the past for them and

because of that they assumed the quick purchase on this one would be approved; that some lots within the development are larger than this one, but this one is noticeably thinner and shallower which is why they need the variance; and that these homes are primarily built up in size rather than wide due to the shape of the lots.

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 deny the application for Case No. 13162 for the requested variance, pending final written decision, for the following reasons:

1. The property does not have unique physical characteristics which have created an exceptional practical difficulty;
2. The Applicant has failed to demonstrate that the property cannot be developed in strict conformity with the Sussex County Zoning Code and that the variance is necessary to enable reasonable use of the property;
3. The exceptional practical difficulty has been created by the Applicant;
4. The variance will alter the essential character of the neighborhood;
5. The variance will substantially or permanently impair the appropriate use or development of adjacent property;
6. The variance will be detrimental to public welfare;
7. The variance does not represent the least modification possible of the regulation at issue; and
8. The variance sought is not the minimum variance necessary to afford relief.

Motion by Dr. Hitchens, seconded by Mr. Kingree, carried that the **variance be denied** for the reasons stated. Motion carried 4 - 0.

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

**Case No. 13167 – Whitney Price** seeks variances from the side yard setback requirement for existing structures (Section 115-25 and 115-183 of the Sussex County Zoning Code). The property is located on the east side of Roxana Road. 911 Address: 32293 Roxana Road, Ocean View. Zoning District: AR-1. Tax Map: 134-12.00-379.01.

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

The Applicant is requesting the following variances:

- 1.5 feet variance from the 5 feet side yard setback on the north side for an existing greenhouse; and
- 1.7 feet variance from the 5 feet side yard setback on the north side for an existing shed

Whitney Price was sworn in to give testimony for this application.

Ms. Price testified that she moved the shed closest to the house into compliance; that she still needs a variance for the greenhouse shed and the shed in the rear; that she purchased that in 2020; that she has an Air BnB on the property; that the utility shed was moved and she had to pay the electrician to do so; that the Air BnB shed was placed in 2014 to allow space in her yard for her kids and dogs to play; that, due to the odd shape of the property, this was the safest location and would cause the least amount of disruption to the environment and natural habitat of wildlife in the yard at that time; that the shed was placed in the setback area unintentionally; that she was a young homeowner at the time and did not know of zoning requirements; that the greenhouse was placed in 2020 in its location in relation to the sun; that she wanted to grow her own food as the price of produce began increasing at the time; that the greenhouse was placed during the pandemic; that the greenhouse was purchased from a local farmer who she paid to move the greenhouse on the property; that she was unaware that the greenhouse was placed in the setback area; that her neighbor supports these requests; that the shed has been wired for electricity and has trees, shrubs, pollinator garden and landscaping; that it would not be feasible to move the shed without disturbing the natural habitat for critters which has been created in the 12 years the shed has been in that location; that a second shed is nearby and would also need to be moved which would disrupt the landscape, trees, and habitat nearby; that the greenhouse was placed in location specifically for the purpose of growing her own food during the 2020 pandemic when produce prices began to skyrocket; that the location was selected due to its location in relation to the sun and on the advice of the local farmer from whom she purchased the greenhouse; that the greenhouse is old and moving it would cause a hardship as it would likely not survive the shock; that she relies on the greenhouse to grow her food; that the shed was placed on the property strategically as it is an unusually shaped yard and to ensure there was plenty of safe play areas for her children and pets and the ability to utilize the space for the purpose of agricultural use for which it is zoned but she had no knowledge of the setback requirement until the constable appeared on her property in November 2023; that the greenhouse was placed on the property in her absence; that, prior to the placement of the greenhouse she asked her neighbor if he would have an issue with the greenhouse and he said he would not; that the variances will alter the essential character of the neighborhood; that none of her neighbors can see the shed; that the shed was deliberately placed in this location in 2014 and cannot be seen by passersby; that the shed is stylish, decorated, and beautifully maintained to accent her garden, landscaping, and natural beauty of the wild habitat in the backyard; that the greenhouse does not take away from the character of the neighborhood; depreciate any property values or substantially or permanently impair the appropriate use or development of adjacent property; that the greenhouse is not detrimental to public welfare; that the structure is an appropriate use since the property is zoned AR-1; that the 3.3 foot setback

variance for the shed is the least modification possible of the regulation at issue; that the shed consists of 117 square feet; that the 3.0 foot setback for the greenhouse is the least modification possible of the regulation at issue; that she fosters critters in her yard – primarily bunnies; that she has a garden; that the lean-to of the shed provided shelter for those animals; that she reviewed photographs with the client; that her neighbor supports the request and has submitted a letter in support of the application; that there is no homeowners association governing the property; that some of her neighbors did not know that she had an Air BnB; that she is selective in who she rents; that she also lives on the property; that one neighbor opposed the Air BnB due to her access to Lucinda Drive but that was issue was resolved; that she is a teacher and was not present when the greenhouse was delivered; that she has a rear driveway; that she relies on the Air BnB for income; that the greenhouse is 20 years old; that she can maintain the structures on her property; that there is a fence along the property line; that she has applied for a conditional use for the Air BnB; that the Planning & Zoning Commission has recommended approval; and that she is still waiting for her County Council approval for the Air BnB.

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. 13167 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique physical conditions due to the shape of the property and the growth of all the natural habitat around the structures makes it hard to relocate them;
2. The exceptional practical difficulty is due to such conditions;
3. The property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code;
4. The variances are necessary to enable the reasonable use of the Property;
5. The exceptional practical difficulty is not being created by the Applicant;
6. The variances will not alter the essential character of the neighborhood;
7. The variances will not impair the appropriate use or development of neighboring properties;
8. The variances will not be detrimental to the public welfare;
9. The variances represent the least modifications of the regulations at issue; and
10. The variances sought are the minimum variances necessary to afford relief.

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

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

**ADDITIONAL BUSINESS**

**Meeting adjourned at 7:48 p.m.**