

MINUTES OF MAY 18, 2026

The regular meeting of the Sussex County Board of Adjustment was held on Monday, May 18, 2026, at 6:00 p.m. in the County Council Chamber, Sussex County Administration Office Building, Georgetown, Delaware.

The meeting was called to order at 6:00 p.m. with Mr. John Williamson presiding. The Board members present were Dr. Lauren Hitchens, Mr. Shawn Lovenguth, Mr. Nate Kingree, Mr. Chuck McClure, and Mr. John Williamson. Also, in attendance were Mr. Jamie 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. 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

Motion by Dr. Hitchens, seconded by Mr. Lovenguth and carried unanimously to approve the Minutes for the March 23, 2026, meeting. Motion carried 5 – 0.

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

Motion by Dr. Hitchens, seconded by Mr. Lovenguth and carried to approve the Findings of Facts for the March 23, 2026, meeting. Motion carried 5 – 0.

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

OLD BUSINESS

Case No. 13184 – Paul & Mary Lou Douglas seeks variances from the side yard setback requirement for proposed structures (Section 115-42 and 115-183 of the Sussex County Zoning Code). The property is located on the northeast side of Laws Point Road. 911 Address: 37030 Laws Point Road, Selbyville. Zoning District: GR. Tax Map: 533-12.16-279.00.

Ms. Norwood stated that the Board tabled this application at the meeting of April 27, 2026.

Mr. Lovenguth moved to deny the application for Case No. 13184 for the requested variances, pending final written decision, for the following reasons:

1. The property does not have unique physical conditions which have created exceptional practical difficulty for the Applicants;

2. The Applicants have failed to demonstrate the property cannot be developed in strict conformity to the Sussex County Zoning Code and that the variances are necessary to enable the reasonable use of the property;
3. The exceptional practical difficulty has been created by the Applicants as the HVAC and tanks were noted on the permit;
4. The variances will be detrimental to public welfare;
5. The variances will alter the essential characteristics of the neighborhood; and
6. The variances do not represent the minimum variances necessary to afford relief.

Motion by Mr. Lovenguth, seconded by Dr. Hitchens, carried that the **variances be denied** for the reasons stated. Motion carried 3-2.

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

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.

Mr. Sharp stated that the record had been left open for the limited purpose of allowing the Applicant to submit a survey; that the survey was submitted in the timeline that was set forth but the case was not advertised for the agenda at the last meeting; that the reason for that survey was because the property line has angles to it in the rear and the Board was trying to ascertain the exact size of the variances needed for the structures in the rear yard; that it would appear that the Applicant needs variances of 6.1 foot, a 4 foot, and a 6 foot from the rear yard for the proposed addition; that the record was left open just for the purpose of providing that survey and then the record closed; that initially it was thought that a 5 foot variance was needed but, when the Board looked at that plan at the initial hearing, the site plan did not actually show how close the structure was to the rear property line and that angling and lot line and the Board wanted to verify it.

Dr. Hitchens moved to approve the application for Case No. 13170 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique physical conditions because of the irregular angles of the property;
2. The property cannot otherwise be developed;
3. That, due to such physical circumstances and conditions, there is no possibility that the property can be developed in strict conformity with the Sussex County Zoning Code;
4. The variances are necessary to enable reasonable use of the property;
5. The exceptional practical difficulty has not been created by the Applicant;
6. The variances will not alter the essential character of the neighborhood;

7. The variances will not substantially or permanently impair the appropriate use or development of adjacent property;
8. The variances will not be detrimental to public welfare;
9. The variances represent the least modifications of the regulation at issue; and
10. The variances represent the minimum variances necessary to afford relief.

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

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

PUBLIC HEARINGS

Case No. 13193 – David & Deborah Botscheller seeks variances from the rear yard setback requirement for a proposed structure (Section 115-25 and 115-183 of the Sussex County Zoning Code). The property is located to the west side of Caldwell Circle. 911 Address: 24354 Caldwell Circle, Lewes. Zoning District: AR-1. Tax Map: 234-11.00-1076.00.

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

The Applicants are requesting the following variances:

- 2.3 feet variance from the 5-foot rear yard setback requirement for a proposed deck; and
- 4.4 feet variance from the 5-foot rear yard setback requirement for a proposed deck.

David Botscheller and Deborah Botscheller were sworn in to give testimony about this Application.

Mr. Botscheller testified that the Applicants are requesting the variances to build a deck in the back of their house; that the Applicants are requesting variances from the five foot setback that would be at 2.3 feet on the south rear side and 4.4 feet on the north rear side of the house for the deck; that the reason for that is that the house was built at 10.7 feet from the rear property line on the right; that the lot has an irregular shape to it and house is built with the right rear closest to the lot line and the left is farther away; that the screened-in porch is built on the right side of the dwelling and it causes there to be a very small separation between the home and the property line; that the Applicants purchased the home this way as the second owners; that the neighbor's home is significantly closer to the front property line allowing them to have a much larger rear yard to work with and the Applicants are very limited on the space they have to build a deck; that, if the Applicants build the

deck within the setback, the actual space will only be about 4.6' after the railing is installed; that they gave the design plans to their homeowners association and the association approved the plans as long as the Applicants received approval from the County; that the deck will be built around the steps going to the basement creating walls around the stairs; that the Applicants considered a patio rather than a deck to avoid the need for the variance but they were trying to eliminate the need for steps off the back of the home down to the patio; that the Applicants have all intentions maintaining a level deck across the back while creating a flooring over the stairs to the basement; that the architect created a "bridge" over the stairwell and created a level deck bringing it all to one height of approximately 35" off the ground; that the house was built originally with the placement being over the setback line and a variance was required from the developer at the time of building; that this is the reason the Applicants are in need of a variance because there is limited space to utilize their backyard due to the misplacement of the home to begin with; that the Applicants are trying to utilize the area to the best of their ability while maintaining as little room as possible; that, if the deck was built to comply with the Code, it would only be 4.5 feet wide; and that he wanted the deck to be large enough to fit a table.

Ms. Botscheller testified that neighbors have 25 foot rear yards.

Mr. Botscheller testified that the deck will be over the concrete wall for the walk-out; that he believes he is allowed to walk in the common area; that he cannot put construction equipment in the common area; that the builder said he can build entirely on the property without going into the common area; and that, after the work was initiated, he learned of the encroachment issue.

Ms. Botscheller testified that the contractor caught the encroachment issue.

Dr. Hitchens asked if the Applicants removed the deck on the left side of the house and only utilized the decking proposed on the right side then they would not need the variances because they could make it all fit within the setbacks.

Mr. Sharp stated that one of the requirements of the variance is that it is the minimum variance to afford relief and that the Applicant is requesting a massive deck and that, if a deck can be built and utilized within the setbacks, then that is what would be required; that the claim of not being able to fit a table on the deck on the left side if the deck stayed within the setback is not applicable considering the size of the rest of the deck that is being proposed; that the Applicants could easily remove the decking on the south side where the variance is needed and still have plenty of space to use with the rest of the proposed decking; that the Applicant is requesting almost a 100% variance on the north side of the property as the structure is going to be 0.6' from the property line where the HOA swales are located; and that, if that deck was approved, the Applicants would have to walk on the HOA property in order to maintain the deck or even walk around it.

Mr. Botscheller testified that the HOA and neighbors were all made aware of their plans for the expansion of the deck and there were no complaints about the proximity to the property line as that area behind his home is common area that the entire community can walk through and use.

Mr. Sharp stated that, if the Applicants placed a patio instead of decking on the left side, they would not need a variance as long as the patio remained below six inches of grade.

Mr. Botscheller testified that, if the Applicants placed the patio on the south side, the aesthetic of the structure would not be cohesive because you would have the wall for the steps to the basement that would require you to walk around rather than having one level area; that the Applicants had a contractor begin work to build the deck and it was discovered then that the footers would be encroaching and work was stopped until this was given the variance; and that the holes for the footers have been dug since April but they are waiting for the decision of the Board to proceed.

Mr. Sharp asked Mrs. Norwood to clarify the current setbacks and what was already approved by the County for the record.

Mrs. Norwood stated that the front yard setback for this property is 25' and that this is considered a cluster subdivision so the rear setbacks are 10' for the principal structure but a deck can encroach up to 5' and the basement steps and existing steps for the current deck are within the 5' and comply with the zoning codes.

Mr. Sharp stated that one of the other requirements for a variance is that it is necessary to afford reasonable relief of this property and the Applicants need to demonstrate that there is a need for this variance, not just a want.

Mr. Botscheller testified that a neighbor to the south has a one-story home; that there is a swale in the common area; that there is a slope in the rear yard; that there is a 7 foot drop to the swale; that he plans to construct the deck over half of the walk-out; that he has a drain and landing at the bottom of the walk-out; that the deck on the south side could comply with the rear yard; that he could use the deck functionally within the setback area; that the kitchen is on the north side of the house; and that he wanted to keep the grill away from the house.

Ms. Botscheller testified that they need the deck for functional outdoor space; and that the rear yard is not flat.

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. 13193 for the requested variances, pending final written decision, for the following reasons:

1. The property does not have unique physical conditions which have created exceptional practical difficulty for the Applicants;

2. The Applicants have failed to prove that the property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code;
3. The variances are not necessary to enable reasonable use of the property;
4. The exceptional practical difficulty has been created by the Applicants;
5. The variances will alter the essential character of the neighborhood;
6. The variances will substantially or permanently impair the appropriate use or development of adjacent property;
7. The variances will be detrimental to public welfare;
8. The variances do not represent the least modifications of the regulation at issue; and
9. The variances do not represent the minimum variances necessary to afford relief.

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

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

Case No. 13195 – Angelo Perri seeks a 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 115-25 of the Sussex County Zoning Code). The property is located to the north side of Whitesville Road. 911 Address: 12675 Whitesville Road, Laurel. Zoning District: AR-1. Tax Map: 532-7.00-27.15

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

The Applicant is requesting the following variances:

- 42.3 feet variance from the maximum floor area requirement for an accessory dwelling unit of 50% of the floor area of the dwelling.

Angelo Perri was sworn in to give testimony for the Application.

Mr. Perri testified that the request is to keep his singlewide manufactured home on his property and utilize it as an accessory dwelling unit; that the trailer was placed in 1992-3 as a medical hardship home for his father; that his father passed away in 1994; that his mother then became ill with dementia; that he has maintained the necessary approvals through all the years to have the medical hardship; that his mother recently passed; that he was aware that the home would have to be removed from the property after her death but he spoke with the Planning & Zoning Department and was alerted to the accessory dwelling unit ordinance; that, in order to keep the home, he could convert the trailer to an accessory dwelling unit per code; that, in doing so, the trailer is over the size limit and is requiring a variance to be approved as such; that the trailer consists of 879 square feet and the main

structure consists of 1,707 square feet, meaning the 50% would be 853.5 square feet; that the trailer is over the allowable size by 42.3 feet; that he currently resides in the trailer and plans to rent out the main dwelling as a long-term rental; that the manufactured home is well-maintained but he does not believe it could be relocated due to the age of the floors and walls; that there has never been any complaints from neighbors about there being two dwellings on one property; that there is standard water and septic to each dwelling; and that there are dedicated parking spaces for each dwelling unit.

Mr. Sharp provided the Board with a history of the special use exception process for medical hardships and the implementation of the accessory dwelling unit ordinance.

Ms. Norwood stated that the Applicant complied with the special use exception requirements for the medical hardship and that the variance is needed due to the size of the dwelling.

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. 13195 for the requested variance, pending final written decision, for the following reasons:

1. The property has unique physical conditions because the property has been like that for many years and no issues known;
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 variance is necessary to enable reasonable use of the property;
5. The exceptional practical difficulty has not been created by the Applicant;
6. The variance will not alter the essential character of the neighborhood;
7. The variance will not substantially or permanently impair the appropriate use or development of adjacent property;
8. The variance will not be detrimental to public welfare;
9. The variance represents the least modification of the regulation at issue; and
10. The variance represents the minimum variance necessary to afford relief.

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

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

Case No. 13196 – Canal Corkran, LLC seeks a special use exception to operate a daycare facility (Section 115-82 and 115-180(C) of the Sussex County Zoning Code). The property is located to the

southeast side of Country Club Road. 911 Address: 36944 Country Club Road, Rehoboth Beach. Zoning District: C-1. Tax Map: 334-19.00-163.00.

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

The Applicant is requesting a special use exception for a daycare facility.

Ring Lardner was sworn in to give testimony for the Application.

Mr. Lardner testified that he is a professional engineer and was representing the Applicant; that the Applicant is requesting a special use exception to operate a day care facility at the Jungle Jim's Waterpark location owned by Canal Corkran, LLC; that the parcel is currently located within an Investment Level One per the 2025 strategy map; that the parcel is zoned C-1 (General Commercial) property with no environmental, wetlands, or water recharge concerns; that the property is surrounded by multiple businesses and several subdivisions; that Bed Bath & Beyond, Wawa, and the DART Park & Ride facility are nearby; that the daycare facility will be located within a modular classroom that will be connected to central water and public sewer; that the building will be sprinkled; that the building will be 130 feet from the closest property line and 200 feet from the nearest residential building; that there are several letters of support of the Application showing the need for such facilities in this area; that the facility will operate Monday through Friday 8 am to 5 pm for children ages 1-6 years old; that the use will be an ancillary use to the Jungle Jim's facility; that the facility will be for working parents all around the Jungle Jim's location; that the use will not substantially affect adversely the uses of neighboring and adjacent properties; that the facility will share parking with Jungle Jim's; and that the facility will be located near the middle of the lot.

Carrie Lingo was sworn in to give testimony about the Application.

Ms. Lingo testified that the facility will serve not only employees of Jungle Jim's but also residents of Sussex County; that the facility will be located within a modular building developed with the assistance of Mr. Lardner to adhere to the Delaware Department of Childcare Licensing requirements and the requirements of the Office of the State Fire Marshal; that the building will be located in the front parking lot past the current pole building; that, in order to gain access to the building, entrants will need to go through Jungle Jim's parking lot and the traffic from the waterpark tends to remain in the front of the parking lot and the placement of the building will allow for a more private and secluded pick up and drop off area for parents; that there will be approximately 20 children who will be in attendance but it could change based on the strict guidelines of the teacher to student ratio; that there will also be a restriction per square footage of the size of the building being brought in; that there are safety precautions already in place from Jungle Jim's but part of that is that there is fencing completely around the waterpark so the children would not be able to get in; that there is no intention of placing a playground outside of the building as the restrictions and guidelines are very intense so the children will have a fenced in grassy field to play in but no playground equipment will

be available.

Merritt Cooch was sworn in to give testimony in support of the Application.

Ms. Cooch testified that she supports the daycare facility as she is a working parent of two young children and knows of the need for adequate daycare in Sussex County; and that there is such a demand for daycare facilities because this area is growing and there are not enough to support the influx of families.

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

Mr. Williamson closed the public hearing.

Mr. Lovenguth moved to approve the application for Case No. 13196 for the requested special use exception, pending final written decision, because the proposed use will not substantially or adversely affect the uses of neighboring and adjacent properties.

Motion by Mr. Lovenguth, seconded by Mr. McClure, carried that the **special use exception be approved** for the reasons stated. Motion carried 5-0.

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

ADDITIONAL BUSINESS

Meeting adjourned at 7:26 p.m.