

MINUTES OF MAY 4, 2026

The regular meeting of the Sussex County Board of Adjustment was held on Monday, May 4, 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. Ann Lepore – Recording Secretary.

The Pledge of Allegiance was led by Mr. Williamson.

Motion by Mr. Lovenguth, seconded by Mr. McClure 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 and Mr. Williamson – yea

Motion by Dr. Hitchens, seconded by Mr. Lovenguth and carried unanimously to approve the Minutes for the March 9, 2026, meeting. Motion carried 5 – 0.

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

Motion by Mr. Kingree, seconded by Mr. Lovenguth and carried to approve the Findings of Facts for the March 9, 2026, meeting. Motion carried 5 – 0.

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

PUBLIC HEARINGS

Case No. 13186 – JR and Laurel, LLC seeks a special use exception for a temporary tent sale (Sections 115-80 and 115-210 of the Sussex County Zoning Code). The property is located to the southwest of Sussex Highway at the intersection of Sussex Highway and Chipman's Lane. 911 Address: 30702 Sussex Highway, Laurel. Zoning District: C-1. Tax Parcel: 232-12.20-34.00

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 two mail returns.

The Applicant is requesting a special use exception for a tent for special purposes for a period exceeding three days.

Maxwell Bushong was sworn in to give testimony for this application.

Mr. Bushong testified that he is representing the Applicant Keystone Novelties Distributors, LLC; that the Applicant proposes to put up a 20' x 40' temporary fireworks tent; that the Applicant has been in business for the last 30 years and has approximately 550 retail fireworks establishments across the country during the July 4th holiday every year; that the Applicant proposed the same application at this location last year and ran a successful tent sale for about a two week period; that the temporary tent will be installed in the front of the grass portion of the property and secured with stakes; that the tent is installed via a professional third-party tent contractor; that the tent is staffed 24-7 by a trained operator who has undergone rigorous safety trainings in accordance with the Applicant's standards, as well as, other government regulations; that the property is visited everyday by a trained route manager who reports to the corporate offices every day for sales and ensure compliance; that there is a written lease agreement with the landlord of the property; that the tent is open from 9:00 a.m. to 9:00 p.m. seven days a week for the two week period; that the proposed dates of sale are approximately from June 24, 2026, and until the night of July 4, 2026, in accordance with Delaware state law; that the tent will be illuminated at night via four 30-watt LED lights, all facing inwards; that the lights will be powered by a small 30-watt inverter generator; that there will be a small porta-potty bathroom facility for the operator to use; that there will be a night watchman on site; that there were no complaints filed last year about this operation at this location; that the traffic has not had any issues as the tent is far enough away from road that the flow of traffic is good coming and going; that there is an extension of the 9:00 a.m. to 9:00 p.m. hours on July 3rd and 4th to stay open until 11:00 p.m. to accommodate the holiday traffic; that the tent will be located approximately 30-40 feet from the front property line; that the site is also used for a Relax Inn; that the estimated traffic generated is four to five cars per hour and, on the last two days, that increases to about seven to eight cars per hour; that the tent will be the same tent as the tent used last year; that the Applicant agrees to the same conditions imposed by the Board last year being imposed with this application; and that the Applicant requests a 3 year approval.

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

Mr. Williamson closed the public hearing.

Mr. Sharp stated that this is a special use exception application and the prior conditions that the Board approved last year were that the tent shall be located in the approximate area as shown on the documentation presented by the Applicant to the Board; that, if the tent is proposed to be relocated elsewhere on the property, the Applicant must seek a new special use exception; that the tent shall only be used on the days from June 21st to July 4th; that the Applicant shall have three days prior to the sale to erect the tent and the tent shall be removed by July 10th; that the approval was valid for a period of one year, which was the prior condition and then the Applicant shall submit documentation to the Planning and Zoning Department from the landlord consenting to the location of the tent on the property.

Mr. Kingree moved to approve the application for Case No. 13186, pending final written decision, for the requested special use exception for a period of three (3) years, because the use will not substantially affect adversely the uses of neighboring and adjacent properties. As part of his motion, Mr. Kingree included the following conditions:

1. The tent shall be located approximately at the location shown on the map within the application and the Applicant would need to seek additional permission from the Board if it was going to be placed in a different location;
2. The tent shall only be erected from June 21 to July 4, with three days prior to that time period to erect the tent and that the tent shall be removed by July 10;
3. The Applicant shall submit documentation to the Planning & Zoning Department evidencing the landlord's consent to the location of the tent on the property; and
4. This approval is valid for a period of three years.

Motion by Mr. Kingree, seconded by Mr. Lovenguth, carried that the **special use exception be approved for a period of three (3) years with conditions** 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. 13187 – Tony Tank Holdings seeks a special use exception for a temporary tent sale (Sections 115-72 & 115-210 of the Sussex County Zoning Code). The property is located to the south of Lighthouse Road directly across from West Fenwick Boulevard. 911 Address: 36656 Lighthouse Road, Selbyville. Zoning District: B-1. Tax Parcel: 533-12.00-94.00

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 zero mail returns.

The Applicant is requesting a special use exception for a tent for special purposes for a period exceeding three days.

Mr. Bushong, who was previously sworn in, was present to provide testimony for this application.

Mr. Bushong testified that he represents the Applicant Keystone Novelties Distributors, LLC; that the Applicant proposes to put up a 20' x 40' temporary fireworks tent; that the Applicant has been in business for the last 30 years and the Applicant has approximately 550 retail fireworks establishments across the country during the July 4th holiday every year; that the Applicant proposed the same application at this location last year and ran a successful tent sale for about a two week period; that the temporary tent will be installed in a vacant lot in the middle of the plot of land and secured with stakes; that the tent is installed via a professional third-party tent contractor; that the tent

is staffed 24-7 by a trained operator who has undergone rigorous safety trainings in accordance with the Applicant's standards, as well as, other government regulations; that the property is visited everyday by a trained route manager who reports to the corporate offices every day for sales and ensure compliance; that the Applicant worked with the adjacent businesses to arrange parking; that there is a written lease agreement with the landlord of the property; that the tent will be open from 9:00 a.m. to 9:00 p.m. seven days a week for the two week period; that the proposed dates of sale are approximately from June 24, 2026, until the night of July 4, 2026, in accordance with Delaware state law; that the tent will be illuminated at night via four 30-watt LED lights, all facing inwards; that the lights will be powered by a small 30-watt inverter generator; that there will be a small porta-potty bathroom facility for the operator to use; that there will be no speakers from the tent; that the property is located near other businesses; that the landlord owns the adjacent gas station; that the Applicant seeks a 3 year approval; that the Applicant received no complaints about the tent last year; that the tent will be located in the same location as last year with the same hours of operation; that the hours of operation will increase to 11:00 p.m. on July 3-4; that the tent will be located greater than 50 feet from the closest gas pump; that the Applicant arranges for daily trash collection; and that the tent will be removed by July 10th.

Mr. Williamson asked if the Application was approved for a three-year period and whether the land is sold or developed during that time what happens to this approval.

Mr. Sharp stated that conditions can be put on the approval requiring that the landlord consents to everything so that nothing can go there for the three years that this approval is good for.

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. 13187, pending final written decision, for the requested special use exception for a period of three (3) years and subject to conditions because the proposed use will not substantially affect adversely the uses of neighboring and adjacent properties:

1. The tent shall be located approximately at the location shown on the map within the application and the Applicant would need to seek additional permission from the Board if it was going to be placed in a different location;
2. The tent shall only be erected from June 21 to July 4, with three days prior to that time period to erect the tent and that the tent shall be removed by July 10;
3. The Applicant shall submit documentation to the Planning & Zoning Department evidencing the landlord's consent to the location of the tent on the property; and
4. This approval shall be valid for a period of three years.

Motion by Dr. Hitchens, seconded by Mr. Kingree, carried that **the special use exception be approved for a period of three (3) years with conditions** 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. 13188 – Two Farms Inc. seeks a special use exception for a temporary tent sale (Sections 115-83.6 & 115-210 of the Sussex County Zoning Code). The property is located at the corner of Sussex Highway (SCR 13) and Laurel Road. 911 Address: 30983 Sussex Highway, Laurel. Zoning District: CR-1. Tax Parcel: 332-1.00-100.00

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

The Applicant is requesting a special use exception for a tent for special purposes for a period exceeding three days.

Mr. Bushong, who was previously sworn in, was present to provide testimony for this Application.

Mr. Bushong testified that he represents the Applicant Keystone Novelties Distributors, LLC; that the Applicant proposes to put up a 20' x 40' temporary fireworks tent; that the Applicant has been in business for the last 30 years and the Applicant has approximately 550 retail fireworks establishments across the country during the July 4th holiday every year; that this is a new application for this location and it comes with a package deal of leases that the Applicant has with Royal Farms; that this tent will be located on property adjacent to Laurel Road near the corner just off the ramp set back about 75 feet; that the tent will be installed via a professional third-party tent contractor; that the tent will be staffed 24-7 by a trained operator who has undergone rigorous safety trainings in accordance with the Applicant's standards, as well as, other government regulations; that the property is visited everyday by a trained route manager who reports to the corporate offices every day for sales and ensure compliance; that the Applicant will dispose of all of its trash in the dumpsters on Royal Farms property; that the tent will be open from 9:00 a.m. to 9:00 a.m. seven days a week for the two week period; that the proposed dates of sale are approximately June 24, 2026, and closing the night of July 4, 2026, in accordance with Delaware state law; that the tent will be illuminated at night via four 30-watt LED lights, all facing inwards; that the lights will be powered by a small 30-watt inverter generator; that there will be a small porta-potty bathroom facility for the operator to use; that the tent will take up four parking spaces in the Royal Farms parking lot but there is a significant amount of parking at this location; that the tent will be staked in the grass and weighted on the pavement; that there will be two entrances to the tent; the tent was previously located at Royal Farms' Harbeson location but the Applicant found that the site was too crowded and declined to use the site this year; and that this location has significantly more space the Royal Farms' Harbeson location.

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. 13188, pending final written decision, for the requested special use exception for a period of one (1) year subject to the following conditions because the use will not substantially adversely affect the uses of adjacent and neighboring properties.

1. The tent shall be located approximately at the location shown on the map within the application and the Applicant would need to seek additional permission from the Board if it was going to be placed in a different location;
2. The hours of operation shall be from 9 am to 9 pm from June 21 to July 2 and from 9 am to 11 pm from July 3 to July 4;
3. The tent shall only be erected from June 21 to July 4 with three days prior to that time period to erect the tent and that the tent shall be removed by July 10;
4. The Applicant shall submit documentation to the Planning & Zoning Department evidencing the landlord's consent to the location of the tent on the property; and
5. This approval shall be valid for a period of one year.

Motion by Mr. Lovenguth, seconded by Mr. Kingree, carried that the **special use exception be approved for a period of one (1) year with conditions** 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. 13189 – Sea Air Village (Lot B85) seeks variances from the separation requirements for proposed structures (Section 115-25 and 115-172 of the Sussex County Zoning Code). The property is located to the southeast side of Sea Air Avenue. 911 Address: 19935 Sea Air Avenue, Rehoboth Beach. Zoning District: AR-1. Tax Map: 334-13.00-310.00-3263.

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 eleven mail returns.

The Applicant is requesting the following variances:

- 6.5 feet variance from the 20 feet separation distance requirement between the proposed manufactured home and the existing deck on Lot B87
- 2.7 feet variance from the 20 feet separation distance requirement between the

- proposed manufactured home and the existing manufactured home on Lot B87
- 9.7 feet variance from the 20 feet separation distance requirement between the proposed HVAC and deck on Lot B87;
 - 6.7 feet variance from the 20 feet separation distance requirement between the proposed manufactured home and deck on Lot B87;
 - 4.2 feet variance from the 20 feet separation distance requirement between the proposed manufactured home and shed on Lot B87;
 - 4.4 feet variance from the 20 feet separation distance requirement between the proposed manufactured home and shed on Lot C86;
 - 6.6 feet variance from the 20 feet separation distance requirement between the proposed manufactured home and manufactured home on Lot C86;
 - 3.4 feet variance from the 20 feet separation distance requirement between the proposed shed and the manufactured home on Lot C86;
 - 9.8 feet variance from the 20 feet separation distance requirement between the proposed shed and the manufactured home on Lot B83;
 - 5.6 feet variance from the 20 feet separation distance requirement between the proposed landing to the HVAC on Lot B83; and
 - 1.7 feet variance from the 20 feet separation distance requirement between the proposed manufactured home and the existing HVAC on Lot B83.

Aimee Bennett was sworn in to give testimony for this application.

Ms. Bennett testified that the Applicant received this property from a resident through a lease transfer; that the unit on the lot was quite old and aging and in need of repairs beyond the value of the unit; that the Applicant proposes to replace the home with a new manufactured home; that the lots in the community were laid out in the 1950s and 1960s prior to the current requirements for separation distances; that the lot sizes are small in comparison to the size of the modern manufactured home lot; that the Applicant selected a standard size floor plan for this home comparable to other new homes but the Applicant is unable to place it within the setbacks while meeting all of the separation distance requirements; that the replacement home is narrower than the prior building and the prior build-out of the lot on the right-hand side of the home; that the deck on the neighboring lot encroaches within 10 feet of the lot line so it makes it difficult to place the proposed home; that, due to the uniqueness of the property, the property cannot be developed otherwise in strict conformity with the Sussex County Zoning Code; that placing a normal width sized home and a standard size shed is consistent with other new homes in the community but the Applicant is unable to do so without violating separation distances; that these variances are necessary to enable the reasonable use of the property and, without the variances, the Applicant cannot develop the property; that the need is not created by the Applicant as the property is quite narrow, which greatly limits the buildable area thereof and the neighboring lots are also narrow thereby causing development of neighboring lots to be nearer to the lot lines; that the replacement home will correct some of the previous separation distance issues but the Applicant still needs the variances; that the placement of the new home will not substantially or

permanently impair the appropriate use or development of the adjacent properties, nor will it be detrimental to the public welfare thereof and that of the community; that these variances will help add to the conformity of the community and modernize the homes within the community, which will add value and improve the characteristics of the community; that the variances sought are the minimum variances necessary to afford relief; that the variances requested represent the least modifications possible; that the proposed manufactured home is currently the narrowest home available from a manufacturer, which minimizes the need for variances on the property; that the home will be similar to other homes in the neighborhood; that the location of homes on neighboring lots makes it difficult to comply with the separation requirements; that the prior home on the property was situated a similar distance to Lot B-87, closer to B-83, and farther from C-86; and that there is no plan to place a deck on the property.

Mr. Kingree asked about the size of the home and if they could go with anything smaller and if there are any other manufacturers who could possibly make the home smaller.

Ms. Bennett testified that the home the Applicant chose is the smallest width size that this manufacturer offers and the Applicant has an existing relationship with this company to get their dwellings from them; that the Applicant has less than 20 feet in the rear of the lot and, if the Applicant needed to move the home forward to eliminate some of the variances, then that is possible but it would impede on the homeowner's parking spaces and the Applicant provides all properties with two parking spots.

Mr. Williamson stated that everything they have on this lot seems to be within the building restriction line and the Applicant is only requesting variances for separation distances; that it appears that if all of the new dwellings were placed in this same fashion that there would be less need for variance hearings overall.

Ms. Bennett testified that the goal moving forward is to have all new homes placed within the building restriction lines and eliminate that need for a separation variance.

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. 13189 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique physical conditions as the community was built in the 1950s and 1960s and the manufactured homes today are not built at the same size and dimensions as they were the community was developed.
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; The variance will not substantially or permanently impair the appropriate use or development of adjacent property; The variances will not be detrimental to public welfare;
7. The variances represent the least modifications of the regulations at issue; and
8. 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. Kingree – yea, Dr. Hitchens – yea, Mr. Lovenguth – yea, and Mr. Williamson – yea.

Case No. 13190 – Jennifer R. Noel seeks a special use exception for an accessory dwelling unit to be placed on lot less than 10,000 square feet (Section 115-42 and 115-20(A)(15) (f) of the Sussex County Zoning Code). The property is located to the northeast side of Burton Avenue and to the southeast side of Duffy Street. 911 Address: 37165 Burton Avenue, Rehoboth Beach. Zoning District: GR. Tax Map: 334-13.19-33.00.

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

The Applicant is requesting a special use exception for an accessory dwelling unit on a lot less than 10,000 square feet.

Jennifer Noel was sworn in to give testimony for this application.

Ms. Noel testified that she is applying for a special use exception to build an accessory dwelling unit on her property on Burton Avenue in West Rehoboth; that the standard that she must meet considers whether the proposed change to the property will substantially or adversely affect neighboring properties; that the plan is to build a small two-story accessory dwelling unit that will consist of less than 1,000 square feet that will comply with all Sussex County zoning and land use laws; that the approval of this ADU will not substantially or adversely affect any of her neighbors' properties; that the property is serviced by central sewer and water; that there are multiple properties in West Rehoboth with multiple dwelling units that are the same size as this property, including the one directly adjacent to the property; that the property diagonally touching the lot has a three bay garage with a dwelling unit on top of it and then another dwelling unit in front of it; that, based on the other properties, this proposed use aligns with the neighborhood; that the Board noted in the opinion issued on Case No. 13001 in December 2024, West Rehoboth is a residential community and having

two dwelling units is consistent with that use; that she wanted to address concerns that have been raised by people who have objected or submitted opposition to the Application regarding there being allegations of a separate unit already in the home; that this home was designed to have three guest bedrooms in addition to a master suite; that one of the guest bedrooms has a sink, refrigerator, and a dishwasher. which are all things that are in short supply when you have a beach house and you have guests; that her daughter and her boyfriend have been living with her since April 2025; that her daughter is going to be in school full-time beginning in September and she wants to build this ADU so her daughter has a home for the next several years while she is in school; that her daughter will be at the property full-time and the Applicant will be at the property part-time; that several objections have raised concern about traffic and parking issues; that the home already has parking for six cars and she is planning to include at least two more for the accessory dwelling unit; that, because her daughter will be living in the accessory dwelling unit and has already been living on the property, she anticipates that there will be no increased traffic as a result of this application and there is sufficient parking available; that other objections have noted the large rental homes that have been built in the neighborhood, including one that was approved for Finley Jones, which is directly behind her house and is taller than her home; that Mr. Jones' property has an accessory dwelling unit as well; that the proposed accessory dwelling unit will be no larger than a garage or a large shed and it is going to be shorter than those buildings, both the primary residence of Mr. Jones and the one with the garages that are on adjacent lots; that, unlike many of these which are actively rented out on a weekly basis, the intended use is for her family entirely consistent with the Sussex County ordinance; that she purchased the property in May 2024; that the property was previously a commercial building used for a dance hall; and that she converted it to her primary residence but spends about half of her time in New Jersey.

Mr. Kingree asked if the ADU was going to be rented out or used as an Air BNB at all.

Ms. Noel testified that there is no intention at all to rent the property but rather utilize it solely for her daughter to live in while going to school; that there was another special use exception granted in October 2024 directly behind her property for an ADU that is rented out on a weekly basis.

Mr. Sharp asked if there was any consideration in adding on to the current home rather than building a separate ADU.

Ms. Noel testified that the home is concrete block and, based on how the renovations were done, the side that faces Duffy is already subject to the 30 foot setback because that is the primary; that the narrow side of the property that faces the street is where the main, the front yard setback is; that there no space in that setback; that it would be more costly to try to raise the roof and put a second floor on it and the air conditioning unit and other things are on the other end of it so she does not have the capacity to just add another space onto it at this moment.

Mr. Williamson stated that it was noted that the Applicant objected to the neighbor's ADU application when it went before the Board in 2024; and he asked that, since the ADU is now complete, is there still opposition from her.

Ms. Noel testified that she does not know if there will be any negative impacts of the neighbor's ADU as the neighbor just completed it and it has not been rented out yet; that the neighbor's ADU is located on a lot the same size as her lot; that the home consists of 2,400 square feet and has a pool and a one-story ADU in the rear of the lot; that her house consists of 2,750 square feet; that the proposed ADU will consist of 2 stories due to the 15 foot corner front yard setback requirement; that the shed will be removed; that she does not know how the neighbor's ADU has affected the Duffy Street neighbors as that is where the entrance to the property is; that she objected to that application but, once the Board had approved it and she understood the standard that had to be demonstrated and that they had met those standards, she did not appeal the decision.

Mr. Sharp stated that there was opposition to the Application with concerns about the traffic, lack of sidewalks and drainage; that the Applicant spoke about how the traffic would be impacted but did not discuss anything about the other concerns.

Ms. Noel testified that this neighborhood was developed in the early 1900s and there are not sidewalks anywhere in the neighborhood and she does not have the power or capacity to change that; that she does not believe that the ADU is going to be changing the traffic; that people worry about people walking or biking in the neighborhood because of the lack of sidewalks and the concerns about increased traffic creating conflict between pedestrians, bikers, and cars; that she does not believe the ADU is going to be dramatically increasing the traffic because her daughter will be using the ADU and no one else; that she has no answer regarding drainage; that the property is connected to sewer and her plan would be that the ADU would be hooked up to her sewer line; that there is no storm drain in the yard but she will ensure that whatever is necessary to comply with all of the runoff and wastewater management is done as part of the building of the new ADU; that there is a gap between the edge of paving and the front property line; that cars park off Burton Avenue in a perpendicular manner; and that cars will be parked on the lot and not within the right-of-way.

Mr. Sharp asked what were her main reasons for opposing the neighbor's ADU application when it was applied for in 2024.

Ms. Noel testified that there was concern that the neighbor's plan had a very large front dwelling and it would dwarf her home; that the neighbor had planned a pool and pavers across the entire property and then the ADU and she was concerned about wastewater management on the property that it would come over onto her property; that she was still in the process of renovating her home at the time and she had not yet moved in and she did not really know what the community was going to be like; that she listened to many of her neighbors who had expressed a lot of the same concerns that they are expressing now about parking and traffic; that there is a home that is diagonally across from the property that is a six bedroom, six bath that is rented on a weekly basis and has six

parking spaces; that, often the neighbor's driveway is full but she has not noticed any significant noise issues or greatly increased traffic because of that; that she is anticipating that the one next to her property is not going to be dramatically different than that either but she does not know for sure, because the neighbor only just finished it.

Letitia Sturgis was sworn in to give testimony in opposition to the Application.

Ms. Sturgis testified that she was opposed to this application as she was denied by Planning and Zoning back in 2016 or 2017 and that if she could not have one then why would she want anyone else to be allowed to.

Mr. Sharp stated that the reason she could have been denied at that time was because the ADU Ordinance was not in effect at that time and it was not allowed; and that, if she wanted to go through the process now, she could explore that option.

Brenda Milbourne was sworn in to give testimony in opposition to the Application.

Ms. Milbourne testified that, when the Applicant talked about parking, there has been plenty of times that her company has parked on the single lane road and coming out of Duffy Street, sometimes she is unable to get out; that the second thing is to put another unit on that little piece of property; that there is already congestion on the roads for the buses and regular traffic that utilize the road; that, when she removes the fence and she puts the house up, where is she going to park the other two cars; that it is too congested on that street because that is the main street; that everything is done on that road, trash pickup, everything where she lives at; that the Applicant has a lot of vehicle traffic and they all park along the road making it difficult for everyone to maneuver their way through the road; that she is the president of West Side New Beginnings; that the ADU will overpower the property; that she disputes that Ms. Noel lives at the property; that she believes Ms. Noel comes and goes; that, when Ms. Noel hosts parties, you cannot get down Burton Avenue; that Burton Avenue is narrow; that she has seen buses have difficulty due to cars parking on the street; and that she does not see lots of traffic on a normal basis.

Kevin Burdette was sworn in to give testimony about the Application and he submitted exhibits to the Board.

Mr. Burdette testified that he represents Finley Jones; that he is a development consultant; that Mr. Jones was in favor of the application for an ADU if some conditions were set upon approval; that Mr. & Mrs. Jones have an accessory dwelling unit on the next lot immediately adjacent to this site; that the Jones' applied and received approval for their accessory dwelling unit on December 9, 2024; that, during that Board of Adjustment hearing on October 7, 2024, there were several items that Ms. Noel and some other neighbors raised as potential concerns; that those concerns were stormwater runoff from the Jones' lot onto Ms. Noel's property and off street parking for the main house and the accessory dwelling unit; that, to address those concerns, Mr. Jones submitted an off street parking

plan for three 9-foot by 30-foot off street parking spots for the main house and one 9-foot by 30-foot parking spot for the accessory dwelling unit, along with an area for bicycle parking; that, to address the stormwater runoff concerns, the Jones' retained Bruce B. Bagley, a certified professional soil scientist, to perform a study on the soil's water infiltration rate and the soil's type on their lot; that the soils were determined to be a sassafras soil with a depth of groundwater of 132 inches, approximately 11 feet, and a limiting zone of 108 inches, approximately 9 feet; that that would be your high seasonal water level limiting zone; that the Joneses retained Merestone Consultants to design an infiltration gallery to absorb the water that their structures and lot would produce as well as the existing conditions of the minimal off-site water entering their lot; that the Joneses had taken into account all the impervious surfaces that they were going to have on the lot plus the minimal off-site water that was coming to the lot at that time; that the Joneses adjusted their contract with Clean Cut Pavers and Pools to install a stormwater infiltration area approximately 1,700 square feet with permeable pavers around the pool area and the sidewalk leading back to the auxiliary dwelling unit; that those have been installed per the design; that this system collects the rainwater from the downspouts from both structures and the water from the pool deck and the water from the existing conditions that was coming from the adjacent lot; that this investment cost approximately \$32,000 to have that system installed; that some items of concern that they presently have are as follows; that since the original existing conditions, Ms. Noel has installed a shed and provided impervious surfaces and increases the amount of potential runoff from her property; that water does not drain through the shed, it runs off, runs onto the ground, and it adds impervious surface; that Ms. Noel has installed an impervious parking area along the front of her property which again increases the amount of potential runoff from her property beyond what the original conditions were; that the addition of an auxiliary dwelling unit would add additional impervious areas and increase the amount of potential runoff that would come from her lot; that a portion of the existing house gutter along the rear of the house has fallen and runoff is directly flowing towards the Jones' lot; that the Jones' fear that with the additional runoff above the pre-existing runoff that was calculated coming from the Noel property, their system may be overloaded and eventually fail; that the system has been functioning now for several months flawlessly but, with the change in the impervious surface, that could change; that other concerns are that the submitted site plan does not indicate designated off-street parking area for the auxiliary dwelling unit, which is required under your code 115-20(A)(15)(D); that the parking along the street could create some additional issues as the Board heard other residents here speak; that the submitted site plan was not signed and sealed by a surveyor licensed in the state of Delaware, which is as well required in by the Code in Section 115-20(A)(15)(B); that the submitted site plan appears to indicate that the new accessory dwelling unit, will be located beside the single family dwelling on the same lot and not behind the single-family dwelling per the code on a lot that's less than three acres; that the submitted site plan appears to indicate that the new accessory dwelling unit will encroach on the 30-foot yard front yard setback along Burton Avenue, which is again in Code Section 115-23(C)(5); that, on the submitted plans, it appears that setback is only about 15 feet from her proposed auxiliary dwelling unit; that the Applicant considers the front of the house to be on Duffy Street but the street numbering nor any things that have gone on in the past has considered the front of her house to be along Burton Drive; that, if these items of concern can be addressed and corrected, then the Joneses have no objection with the accessory dwelling unit being located on the Noel property.

Mr. Sharp stated that the orientation of the house and the placement of the ADU would not be a requirement under the special use exception ordinance; that the only requirement would need to be met are Code Sections 115-20(C)(D)(E) per Code Section 115-23(C)(4); and that under that Code it states that this is permitted as long as it meets Sections C, D & E.

Ms. Norwood stated that staff consider Duffy Street the front of the property and the corner front would be Burton Drive.

Mr. Sharp stated that, with the staff's determination on the front and corner front of the property, the accessory dwelling unit meets all required setbacks based on the site plan submitted.

Mr. Burdette testified that the specific conditions they would ask for is that the Applicant would need to make sure that the impervious surfaces are permeable with and underground filtration system to prevent excess run off from her property and to distinguish the set parking in the site plan as it is not clearly stated that there is no off street parking.

Ms. Noel testified that the neighbors had complaints of parking from her home preventing traffic from flowing properly on the street and there was an instance where her contractors were parking their vehicles on the road and when it was brought to her attention she made sure that they moved to her property; that the buses that travel the road come through daily and there is nothing from her plan that will impede on that traffic; that she has only had large groups on the property six times since January 2025; that she does not think her groups have caused traffic issues; that the plan is to comply with all Sussex County stormwater management requirements to prevent any excess run off; that the new parking area will be stone like her current driveway which is the more pervious material; that the parking spaces will be located between the ADU and Burton Avenue; that her daughter is a water resource engineer who develops stormwater management systems; that the gutter fell off during the ice storm and she plans to repair it and to be a good neighbor; that there is some standing water due to the unevenness of the lot's topography; that the fence will be modified; that she would ask that the Board would allow her to proceed with the Application but she could retain someone who will be able to tell her if an infiltration system would even be needed.

Desiree Sullivan was sworn to give testimony in support of the Application.

Ms. Sullivan testified that she lives in New Jersey and the Applicant lives at the Property but comes to New Jersey more often due to Ms. Sullivan's divorce; that the Applicant's daughter takes care of the house when the Applicant is in New Jersey; that in the next couple of months the plan is stay down here more steadily so the necessity for the separate space for her daughter will be more apparent.

Mr. Burdette testified that there are no issues with parking along Duffy Street but he is unsure about parking along Burton Drive; that he does not see the parking with the ADU as being a problem

provided parking spaces are provided; that the Sussex Conservation District has limited jurisdiction in a residential context; that the Sussex Conservation District comes in when a problem exists but is less involved in the planning phase on the residential side; that there are ways to improve the drainage on the property but the Applicant proposes a significant amount of impervious surface area.

Finley Jones was sworn in to give testimony about the Application.

Mr. Jones testified that there is only two feet of grass between the Applicant's property and his pathway; that, when his family was constructing its ADU, they put in an extensive drainage and infiltration system to prevent more flooding than what the neighborhood already experiences; that there are no drains along Duffy Street and with even more impervious surfaces it will be a lot of run off that will be created by this structure; and that he would be fine with the Application if underground drainage was installed like he implemented on his lot.

The Board found that one person appeared in support of and five people appeared in opposition to the Application.

Mr. Williamson closed the public hearing.

Mr. Lovenguth moved to table this case until the end of the meeting to give the Board members additional time to consider this application.

Motion by Mr. Lovenguth, seconded by Mr. McClure to **table the Application to the end of the meeting**. 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. 13191 – Timothy D. Law & Michael Knep seeks a variance from the front yard setback requirement for a proposed structure (Section 115-34 and 115-182 of the Sussex County Zoning Code). The property is located to the northwest side of New Mexico Avenue. 911 Address: 4 New Mexico Avenue, Milton. Zoning District: MR. Tax Map: 235-3.12-25.00.

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

The Applicants are requesting the following variance:

- 10.9 feet variance from the 30-foot front yard setback requirement for a proposed deck.

Timothy Law was sworn in to give testimony for this application.

Mr. Law testified that he is seeking a variance to build a deck on the side of the home; that the dwelling is a waterfront home on Broadkill Beach and the deck is consistent with all of the other homes along the beach; that all of the homes in the neighborhood have decks and structures similar to what the Applicants are proposing so this falls within the conformity of neighborhood; that the Applicants have written support from the neighbors on each side of them; that the only way the deck can be seen is from the beach; that the existing home actually consumes about 50% of the current setbacks which means anything that is added to the home will require a variance to be completed; that the home was purchased this way and they did not create the issue; that front of the house is considered on New Mexico Avenue and the deck will be encroaching on the front yard setback on that side but the actual porch wraps around to the back also; that the deck will measure 4 feet by 12 feet; that there is a septic mound in the rear of the property that takes up a large piece of the yard; that there is approximately 20-feet between the edge of paving and the structure; that the property line does not match the edge of New Mexico Avenue; that New Mexico Avenue is a dirt road that terminates at the edge of the property; that there will be no stairs as the deck will be strictly accessed off the second floor of the dwelling; and that the property does not flood.

Ms. Norwood stated that the existing structures on the property are legally non-conforming as the house was built before zoning code was in effect but anything that is done now must comply, but all existing structures are allowed.

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. 13191 for the requested variance, pending final written decision, for the following reasons:

1. The property has unique physical conditions as it is facing the beach and has been purchased as it sits and it has a mound septic system;
2. 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;
3. The variance is necessary to enable reasonable use of the property;
4. The exceptional practical difficulty has not been created by the Applicant;
5. The variance will not alter the essential character of the neighborhood;
6. The variance will not substantially or permanently impair the appropriate use or development of adjacent property;
7. The variance will not be detrimental to public welfare;
8. The variance represents the least modification of the regulation at issue; and
9. The variance represents the minimum variance necessary to afford relief.

Motion by Mr. Lovenguth, seconded by Dr. Hitchens, carried that the **variance 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 and Mr. Williamson – yea

Case No. 13190 – Jennifer R. Noel seeks a special use exception for an accessory dwelling unit to be placed on lot less than 10,000 square feet (Section 115-42 and 115-20(A)(15) (f) of the Sussex County Zoning Code). The property is located to the northeast side of Burton Avenue and to the southeast side of Duffy Street. 911 Address: 37165 Burton Avenue, Rehoboth Beach. Zoning District: GR. Tax Map: 334-13.19-33.00.

The Chairman referred back to Case 13190 and the Board discussed the Application.

Dr. Hitchens moved to approve the application for Case No. 13190 for the requested special use exception, pending final written decision, subject to the following conditions because the proposed use will not substantially affect adversely the uses of neighboring and adjacent properties.

1. The Applicant must comply with Sussex Conservation District regulations and provide the Office of Planning & Zoning with evidence of the Sussex Conservation District's approval of the stormwater management system for the property;
2. The Applicant must provide the Office of Planning & Zoning with evidence demonstrating that the accessory dwelling unit will have two dedicated parking spaces.

Motion by Dr. Hitchens, seconded by Mr. Kingree, carried that the special use exception be approved for the reasons stated. Motion carried 4 - 1.

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

Mr. Williamson noted in his vote that there was no substantial evidence presented which convinced him that the use would substantially affect adversely the uses of neighboring and adjacent properties.

ADDITIONAL BUSINESS

Meeting adjourned at 8:03 p.m.