

MINUTES OF MAY 5, 2025

The regular meeting of the Sussex County Board of Adjustment was held on Monday, May 5, 2025, at 6:00 p.m. in the County Council Chamber, Sussex County Administration Office Building, Georgetown, Delaware.

The meeting was called to order at 6:00 p.m. with Chairman Jeffrey Chorman presiding. The Board members present were Dr. Kevin Carson, Mr. Jeffrey Chorman, Mr. Shawn Lovenguth, and Mr. John Williamson. Mr. John Hastings was absent. Also, in attendance were Mr. James 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. Chorman.

Motion by Mr. Williamson, seconded by Mr. Lovenguth and carried unanimously to approve the agenda, as amended by moving Case No. 13064 to the front of the agenda. Motion carried 4 – 0.

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

Motion by Mr. Williamson, seconded by Dr. Carson and carried unanimously to approve the Minutes for the March 10, 2025, meeting. Motion carried 4 – 0.

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

Motion by Dr. Carson seconded by Mr. Lovenguth and carried to approve the Findings of Facts for the March 10, 2025, meeting. Motion carried 4 – 0.

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

PUBLIC HEARINGS

Case No. 13064 – State of Delaware; Division of Fish & Wildlife seeks a special use exception for a rifle and pistol range. (Section 115-23(A), 115-25, and 115-210 of the Sussex County Zoning Code). The property is located on the east side of Hunters Cove Road approximately 683 feet south of Owens Road. 911 Address: 12613 Hunters Cove Road, Greenwood. Zoning District: AR-1. Tax Map: 430-9.00-19.00

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

The Applicant is requesting a special use exception for a rifle / pistol range for a period of 5

years.

Ms. Norwood stated that, today, a request was made by the Applicant to reschedule the public hearing due to a conflict with tonight's hearing.

Mr. Sharp stated that the Applicant has asked to be rescheduled to a meeting in June or July; that, most likely July 7, 2025, would be the best option; that he suggests that the Board open the floor to see if there is anyone here with an interest in this application; that members of the public be heard this evening; that the record be left open until July 7th to complete the public hearing; and that the public may be heard this evening or wait until the Applicant presents their case and testify at that time.

Mr. Brent Schrock was sworn in to give testimony in opposition to the Application.

Mr. Schrock testified that his property is adjacent to this property on the southeast; that the pistol range is close to the southeast property line shared with his property; that the pistols and rifles are very noisy and are different from clay shooting; that he does not want this in his backyard; that he has poultry and livestock on his property; that there is no berm on his side and he has concerns about his grandchildren's safety; that the sport clay shooting is not the issue; that the range is less than 100 yards from his property; that there are not many trees which buffer the range from his property; that the pistols are unbearable; that the shooting scares his poultry and cows; that there is no place for a rifle since there is a residence through the woods; and that Monday is the only day that they do not shoot.

Mr. David Glover was sworn in to give testimony in opposition to the Application.

Mr. Glover testified that his property is adjacent to this property on the northwest side; that his property is approximately 600 feet away; that Billy Walters had this property originally and Mr. Walters asked him to sign a petition for handicapped shooting only; that the shooting is loud and different from the clay shooting; that there is a rifle range on Rifle Range Road and you can hear the noise from that; that he has lived at his property since 1987; that there is no comparison to the sounds from bird shot and rifles / pistols; that this will be loud and with real bullets; that his house was hit with birdshot; and that he spoke with other neighbors in opposition who could not attend the meeting.

Mr. David L. Wilson, State Senator, was sworn in to give testimony in opposition to the Application.

Mr. Wilson testified that he tries to stay out of County business, however, he began receiving phone calls from constituents so he came to voice his opinion; that the State purchased this property from Billy Walters and it was understood that the sporting clay was grandfathered; that he was an advocate for that use; that a shooting range is going to be constant and it is a public use with people coming from New Castle County and Maryland; that changing the use would be an unfair disadvantage to the citizens who have lived here and paid taxes for several years; that they got

approval for the rifle / pistol range five years ago; that, to his knowledge, they have not used it for that purpose; that the sound is much different for rifles and pistols; and that the Applicant will be doing this every five years.

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

Dr. Carson moved to leave the record open for Case No. 13064 and to schedule a public hearing for July 7th, 2025.

Motion by Dr. Carson, seconded by Mr. Williamson, carried that the **record be left open and the hearing continued on July 7th, 2025.** Motion carried 4 - 0.

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

Case No. 13062 – Brian Quier seeks variances from the side and rear yard setback requirements for a proposed structure. (Sections 115-183, 115-25 and 115-185 of the Sussex County Zoning Code). The property is located on the west side of River Bend Drive and the East Side of Koszy Lane approximately 100 feet to the north of Thorogoods Road. 911 Address: 105 River Bend Drive, Dagsboro. Zoning District: AR-1. Tax Map: 233-5.00-41.01

Ms. Norwood presented the case and stated that the Office of Planning and Zoning received three letters of support, zero letters of opposition, and zero mail returns.

The Applicant is requesting the following variances:

- 10 feet from the 15 feet side yard setback requirement on the south side for a proposed pole building.
- 15 feet from 20 feet rear yard setback requirement for a proposed pole building.

Mr. Brian Quier was sworn in to give testimony about his application.

Mr. Quier testified that his request is to build a pole building on his property that will line up with the pole building on his neighbor's property; that this is the only place on his property that he could place this pole building; that it cannot be placed on the other side of the property because the septic drain field is in that area and there would be no way to access the pole building; that the driveway is on the side of the proposed pole building; that the pole building will be used to store a boat, car, and storage; that there is no basement in the house for storage; that, if the pole building was brought off the rear setback, it would block access to the garage; that the Koszy Lane to the rear of the property is used as a driveway by Stanley Lindauer to his property; that Mr. Lindauer has submitted his support for the Application; that there is approximately 20 feet from the property line

to the edge of the lane; that the pole building has been designed with aesthetics so that it does not look like a barn; that there will be a lean-to attached to the garage facing the interior of the lot; that there are no steps off the side or rear of the proposed building; that there are no proposed windows to the side and rear of the pole building; that the neighbor's pole building measures 20 feet by 30 feet; that the proposed pole building will measure 32 feet by 40 feet; that the boat will not fit in a smaller building; that he bought the property in September 2024; that the driveway was there at that time; that the pole building can be maintained on the subject property; that the size of the pole building is necessary for boat storage; that the pole building will have gutters; that he did not build the house but purchased it last year; that the pole building could not be moved closer to the dwelling as they would not be able to get any equipment to the rear if they needed to work on the well; that the well is located to the rear of the dwelling; that there is a flower bed behind the dwelling also; that he is not sure what is unique about the property; that the house has been on the lot since 1979; and that the chairman of the architectural committee said that, if the County approves the Application, then the HOA will approve.

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

Mr. Chorman closed the public hearing.

Dr. Carson moved to deny the application for Case No. 13062 for the requested variances, pending final written decision, because the exceptional practical difficulty is being created by the Applicant.

Mr. Williamson added to the motion that the property does not have unique conditions.

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

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

Case No. 13063 – Peter & Maria Passero seeks a variance from the separation distance requirement for a proposed structure. (Section 115-34 and 115-188 of the Sussex County Zoning Code). The property is located on the south side of S Nicklaus Drive within the Peninsula Golf and Country Club. 911 Address: 27514 South Nicklaus Avenue, Millsboro. Zoning District: MR- RPC. Tax Map: 234-30.00-304.03-48

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

The Applicants are requesting a 2.4 feet variance from the 40 feet separation requirement between units for a proposed porch.

Mr. Eric Blaker was sworn in to give testimony about the Application and he submitted an affidavit from the homeowners, listing him as their agent.

Mr. Blaker testified that the Applicants are requesting a 2.5 feet variance from the 40 feet separation distance so there would be 37.5 feet between the houses; that it is the only house that has a 40 feet setback; that the house backs up to a golf course; that the porch would be a 12 feet by 16 feet screened-in porch on a raised deck; that the dwelling is a single-family dwelling; that the Applicants plan to move to the property full-time; that the design was submitted to the architectural review committee; that the lot is pie-shaped with arborvitaes between the two houses; that, if the house had been built more towards the front of the property, this variance would not be necessary; that the dwelling will be the Applicants' primary home when they retire; that this is the only place for a screened porch as the HOA will not permit a screened porch on the existing deck; that another placement would put it in the direct line of the tee box; that the size of the proposed porch is the minimum size porch to allow for an eating area for the family; that they have 4 children and 9 grandchildren; that there are letters of support from the adjacent neighbors; that there are 1,257 homes in the neighborhood; that there are 200-300 porches; that there is no precedent if approved; that he has a concern about errant golf shots; that the steps will project towards the front yard; that only 10 square feet of this porch will encroach into the setback; that the porch needs to be screened because of the are mosquitos and flies in the area; that the property is unique due to the flies and proximity to the golf course; and that they have no concerns about the ability of neighbors to build onto their homes if this application was approved.

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

Mr. Chorman closed the public hearing.

Mr. Lovenguth moved to approve the application for Case No. 13063 for the requested variance, pending final written decision, for the following reasons:

1. The property has unique physical conditions because the house was placed on the property; and
2. The exceptional practical difficulty is not being created by the Applicants.

There was no second to the motion so the motion failed.

Mr. Williamson moved to deny the application for Case No. 13063 for the requested variance, pending final written decision, for the following reasons:

1. The Applicants could design the porch differently to minimize the variance;
2. The exceptional practical difficulty is being created by the Applicants; and
3. The variance sought is not the minimum variance necessary to afford relief.

Motion by Mr. Williamson, seconded by Dr. Carson, carried that the **variance be denied for the reasons stated.** Motion carried 3 - 1.

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

Case No. 13065 – Melony Messina seeks a special use exception for a commercial dog kennel. (Sections 115-23 and 115-210 of the Sussex County Zoning Code). The property is located on the south side of Wolfe Neck Road approximately 0.68 miles northeast of Coastal Highway. 911 Address: 35808 Wolfe Neck Road, Rehoboth. Zoning District: AR-1. Tax Map: 334-7.00-16.00

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

The Applicant is requesting a special use exception for a commercial dog kennel.

Melony Messina was sworn in to give testimony about her application.

Ms. Messina testified that she is seeking a special use exception for a commercial dog kennel; that the kennel will not substantially affect adversely the uses of neighboring and adjacent properties as the adjacent properties are owned by her parents and her brother; that the closest non-relative is houses away; that the kennel hours would be by appointment only; that the maximum number of dogs would be ten; that overnight boarding will be permitted; that the kennel has not yet been constructed; that a pole building and runs would be constructed on the property; that the pole building will measure 24 feet by 40 feet; that no variance is needed for the structures; that there would be fencing surrounding the entire property in addition to surrounding the runs; that the double-fencing would be for the protection of the dogs; that there will inside and outside dog run areas; that she does not anticipate much traffic with the kennel; that customers will be there for drop-off and pick-up; that there is a barn to the rear of the property which will help with the noise abatement; and that shrubbery may be planted inside the fencing if necessary for noise abatement and also privacy.

Mr. Mark Thompson was sworn in to give testimony about the Application.

Mr. Thompson testified that he is Ms. Messina's father; that he lives in the property adjacent to the subject property; that the property to the rear of her property is a farm owned by the State of Delaware as part of Cape Henlopen State Park; that the fence will be around the perimeter of the property and the building; and that there will be a door for each kennel.

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

Mr. Chorman closed the public hearing.

Mr. Williamson moved to approve the application for Case No. 13065 for the requested special use exception, for a period of 5 years, pending final written decision, because the use will not substantially adversely affect the uses of adjacent and neighboring properties.

Motion by Mr. Williamson, seconded by Mr. Lovenguth, carried that the **special use exception be approved for a period of five (5) years for the reasons stated.** Motion carried 4 - 0.

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

Case No. 13066 - James Nichols seeks a variance from the front yard setback for an existing structure. (Section 115-185 and 115-139 (c) of the Sussex County Zoning Code). The property is located on the south side of Lagoon Lane within the Mariner's Cove Manufactured Home Park. 911 Address: 35414 Lagoon Lane, Millsboro. Zoning District: VRP. Tax Map: 234-25.00-4.00-56380

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

The Applicant is requesting 25 foot variances from the 25 feet front yard setback requirement for a porch and deck. The manufactured home, attached garage, and steps were permitted and issued certificates of compliance in 2021 and have been approved through the Administrative Corrective Process.

Mr. James Nichols was sworn in to give testimony about his application.

Mr. Nichols submitted additional letters of support and photographs for his application.

Mr. Nichols testified that he received building permits and that it was not until the final inspection that it was discovered that there is an encroachment; that there was a survey completed and it showed a paper road; that the cul-de-sac on the survey was not created and, had it been, the setback would be in the middle of the kitchen; that the park management was not even aware that there was a paper road there; that the dwelling is a doublewide manufactured home; that the prior home on the property was a singlewide manufactured home; that the house was on the property when they purchased it and the only thing being applied for is the front porch; that the property is unique; that the property is located at the end of the street; that there is no HOA but he has approval from ELS Corporation who owns the park; that he is requesting a 25 feet variance from the 25 feet setback requirement; that the original builder, Michael Garron, did not complete the project and had taken out the permit in the homeowners name; that he had to hire other contractors to finish the job; that he is a licensed contractor in another state; that the permit process and the licensing process for contractors is quite lacking; that, had he known there was an issue with the setbacks, it could have been modified before it was built; that garbage trucks do a six-point turn at the end of the road; that the corner of the

uncovered porch is 20 feet to the edge of the driveway and 23.5 feet from the covered porch to the edge of the driveway; that he did not build the house but purchased it in 2023; that the porch does not block the view of the neighboring properties; that it extends 2/10 of a foot over the property line; and that he would have to cut some boards off the deck to make sure the entire encroachment was within his property; that the porch provides safe access to the house and helps with views; and that he uses the porch for barbeques.

Mr. Sharp noted that a variance is also needed for the steps and a lot coverage variance may also be needed; that the VRP zoning district was closed many years ago; and that the park is likely an old manufactured home park.

The Board members discussed the application and had concerns about approving a variance that would extend beyond the homeowners' property line.

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

Mr. Chorman closed the public hearing.

Dr. Carson moved to leave the record open for Case No. 13066 until June 16th, 2025, for the limited purpose of allowing the Applicant to make improvements to the deck and to provide a survey showing that the encroachments do not extend beyond the Applicant's property line.

Motion by Dr. Carson, seconded by Mr. Lovenguth, carried that the **Application be left open for the stated limited purpose until June 16th**. Motion carried 4 - 0.

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

Case No. 13067 – Joseph and Susan Sparmo seek a variance from the rear yard setback for a proposed structure. (Section 115-34 and 115-183 of the Sussex County Zoning Code). The property is located on the south side of 18th Boulevard within The Peninsula Subdivision. 911 Address: 27280 18th Boulevard, Millsboro. Zoning District: MR- RPC. Tax Map: 234-30.00-478.00

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

The Applicants are requesting a 14 feet variance from the 30 feet rear yard setback requirement for a proposed porch.

The Board found that Mr. Tim Willard, Esq., presented the Application on behalf of Joseph and Susan Sparmo.

Mr. Willard stated that the property is located in The Peninsula; that the entire subdivision is unique as it is one of the largest residential planned communities ever approved by Sussex County; that the community is a gated community with multiple housing types; that the Sparmos purchased this home in 2022; that this property will be used as a summer home for their family and will not be a rental property; that their neighbor, who rents its unit, is in support of the Application; that the Applicants have homeowners association approval; that the site plan shows that they have a zero setback behind the home; that the building setback line indicates that there is 30 feet; that 15 feet is an irrigation easement and they cannot build in the first 15 feet; that there are various townhouse units within the development that have porches which extend beyond 15 feet; that it is unclear why the porches that extend beyond 15 feet were allowed to do so; that the lot measures 112 feet by 28 feet; that it is a small shotgun house and is unique because the property slopes down to the pond; that the Applicants are requesting a variance of 14 feet; that the porch will not extend as far as the existing neighboring patios; that the house is small and that this sunporch would allow them to host their family and entertain; that, per Sussex County Code, the Applicants have the right to reasonable use of their property; that there were two similar variances granted in 2012; that granting the variance will not alter the essential character of the neighborhood as there are many screened porches in The Peninsula; that 6 nearby townhouses have porches and that some porches were built with the dwellings; that a porch was not part of the model for the Applicants' dwelling; that the current porch is not usable; that the requested variance is the minimum variance to afford relief; that the Applicants did not create the issue as there is 60 feet to the edge of the pond and that the Applicants thought they had an option to put a porch on when they purchased the home; that, as it is close to the pond, there are a lot of bugs; that the exceptional practical difficulty is not self-created; and that Lennar Homes built the Applicants' dwelling.

Ms. Susan Sparmo was sworn in to give testimony about her application.

Ms. Sparmo affirmed the statements made by Mr. Willard as true and correct.

Ms. Sparmo testified that she has allergies and that is why she wanted the option of having a closed glass area that could be open to let the air in when it is not allergy season; and that the porch will measure 20 feet deep by 14 feet wide and will project off the existing porch.

Mr. Jack Shalongo was sworn in to give testimony in support of the Application.

Mr. Shalongo testified that he was in favor of the porch; that he lives 4 houses away from the property; that the properties in the neighborhood are unique; that some houses have porches and others do not; that the builder told them they could build to 15 feet; and that he had questions about who had jurisdiction over setbacks - would it be the HOA or Sussex County.

Mr. Sharp explained that Sussex County does not enforce deed restrictions of the homeowners association.

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

Mr. Chorman closed the public hearing.

Dr. Carson moved to deny the application for Case No. 13067 for the requested variance pending final written decision, for the following reasons:

1. The property does not have unique physical conditions; and
2. The exceptional practical difficulty is being created by the Applicants.

Motion by Dr. Carson, seconded by Mr. Lovenguth, carried that the **variance be denied for the reasons stated.** Motion carried 3 - 1.

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

ADDITIONAL BUSINESS

There was no additional business.

Meeting adjourned at 8:19 p.m.