

MINUTES OF NOVEMBER 3, 2025

The regular meeting of the Sussex County Board of Adjustment was held on Monday, November 3, 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 John Williamson presiding. The Board members present were Mr. Shawn Lovenguth, Dr. Lauren Hitchens, Mr. Nathan Kingree, and Mr. John Williamson. Also, in attendance were Mr. James Sharp, Esquire – Assistant County Attorney, and staff members Ms. Jennifer Norwood – Planning and Zoning Manager 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 4 – 0.

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

Motion by Dr. Hitchens, seconded by Mr. Kingree and carried unanimously to approve the Minutes for the August 18, 2025, meeting. Motion carried 4 – 0.

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

Motion by Mr. Kingree seconded by Mr. Lovenguth and carried to approve the Findings of Facts for the August 18, 2025, meeting. Motion carried 4 – 0.

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

Motion by Mr. Lovenguth, seconded by Dr. Hitchens and carried unanimously to approve the Minutes for the September 8, 2025, meeting. Motion carried 4 – 0.

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

Motion by Dr. Hitchens seconded by Mr. Kingree and carried to approve the Findings of Facts for the September 8, 2025, meeting. Motion carried 4 – 0.

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

PUBLIC HEARINGS

Case No. 13125 – Mark and Kate Ovaska seek a variance from the side yard setback requirement for a proposed structure (Section 115-25 and 115-183 of the Sussex County Zoning Code). The property is located on the south side of Eagles Crest Road. 911 Address: 29512 Eagles Crest Road, Milton. Zoning District: AR-1. Tax Map: 235-22.00-50.00

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

The Applicants are requesting the following variance:

- A 7 foot variance from the 15 ft. side yard setback on the west side for a proposed pole building.

Mark Ovaska and Kate Ovaska were sworn in to give testimony about the Application.

Mr. Ovaska testified that the Applicants are looking to place a new garage on their property that will replace the old garage that was previously on the property; that the previous building was in complete disrepair and, after a recent storm, needed to be taken down; that this replacement garage will sit in the same location as the old one on the west side of the property but will need the variance for the side yard setback as it encroaches by 8 feet; that the garage cannot be moved anywhere else on the property as there is a septic system on the other side of the house; and that the pole building will be located on top of an existing concrete pad.

Ms. Ovaska testified that the proposed location of the pole building is the only location where it can be placed; that there is a peat moss system on the other side of the property; that the lot has a narrow width; that the pole building cannot be located closer to the house because of the location of the well; that the variance requested is the minimum variance needed; that the need for the variance was not created by the Applicants; that the Applicants did not build the house; that the previous garage was located 8 ft. from the property line; that there are several pole buildings and large garages in the neighborhood; that the proposed building will not change the essential character of the neighborhood; that there is an undeveloped lot adjacent to the property; and that the Applicants tried to reach the owner of that property.

Mr. Ovaska testified that the variance requested is the minimum variance to afford relief; that the original garage had a carport attached to it so the original footprint of the garage appears smaller than the one being built but the proposed pole building is the almost the same size as the original garage and carport together; and that the old garage was removed about a year ago after a storm made it fall into a state of disrepair.

Ms. Ovaska testified that the garage was removed about a year ago; that the rear of the original building was falling down when the Applicants purchased the home and, in order to get homeowners insurance, the Applicants needed to take that portion of the building down; that the house was built

in the 1980s; that the Applicants have lots of belongings; that the shed has been removed; that there is no homeowners association; that a 600 square foot structure is too small for their cars and planned use; and that she plans to use part of the space for her art studio.

Mr. Ovaska testified that there have been no complaints about the prior garage; that it is typical to have large pole buildings in the neighborhood; that there were flooding issues on the property which led to some landscaping changes; that the pole building will measure 23 feet by 70 feet; that he disputes the opposition's comment about the negative effect on property values; and that the pole building needs to be away from the house due to the chemicals needed for the art studio.

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. 13125 for the requested variance, pending final written decision, for the following reasons:

1. The property has unique physical conditions with its placement of its septic field;
2. 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 the reasonable use of the property;
4. The exceptional practical difficulty has not been created by the Applicants;
5. The structure is being located in the same location as the prior structures;
6. The variance will not alter the essential character of the neighborhood;
7. The variance will not substantially impair the appropriate use or development of adjacent property;
8. The variance represents the least modification possible of the regulation at issue; and
9. The variance represents the minimum variance necessary to afford relief.

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

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

Case No. 13127 – Ernest E. Megee, Jr., Irrev. Trust seeks a special use exception to place a telecommunications tower (Section 115-194.2 and 115-210 of the Sussex County Zoning Code). The property is located on the north side of Lewes Georgetown Highway. 911 Address: 22975 Lewes Georgetown Highway, Georgetown. Zoning District: C-1. Tax Parcel: 135-16.00-12.00

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 Applicant is requesting a special use exception for a telecommunications tower.

Andrew Petersohn and Jacob Minardi were sworn in to give testimony about the Application. Christopher Schubert, Esquire, presented the Application on behalf of the Applicant. Mr. Schubert presented exhibits to the Board.

Mr. Schubert stated that the Application has been submitted as a special use exception placing a cell phone tower on a property located in a C-1 (General Commercial) zoning district; that there are several other commercial properties within the vicinity of this property such as a plumbing / HVAC business and a site contractor on adjacent properties; that there is a dense wooded area to the rear of the property; that the property is adjacent to Lewes-Georgetown Highway which is a well-traveled road; that AT&T has a lease agreement with the owner of the property; that the anchor tenant will be AT&T Mobile; that part of the requirement for this application is that other sites that have been considered for the placement of the tower; that Mr. Petersohn will testify that he looked at three other sites but could not come to terms with the property owners to place the tower; that there is a Verizon tower within a two mile radius of this location but it was too far south and too low in height to utilize the collocation for AT&T's antennas; that AT&T is looking to fill in the gap of coverage along Route 9 and in order to do so they would require a tower of 145 feet in height to link up with the network sites to the east and west; that a shorter tower would not connect as well; that there is inadequate and unreliable coverage in the area; that the facility will comply with FCC regulations on radio wave emissions and, in a worst case scenario, will emit 2.3% of the maximum accepted RF levels per FCC regulations; that there will be 6 antennae on top of the tower; that the site will not create any adverse radio interference and it will comply with any regulations set forth by the Federal Aviation Administration; that there is no potential for harmful interference with televisions, radios, or garage door openers; that the tower will be monitored 24 / 7; that there is an airport southwest of the site; that the tower may need to be painted to meet FAA regulations; and that the tower will be lit every 50 feet per Sussex County regulations.

Mr. Sharp stated that the Board has no authority to grant variances from the lighting requirement.

Mr. Petersohn testified that he is a licensed engineer and that he affirms Mr. Schubert's statements as true and correct.

Mr. Schubert stated that the current property has as residence in the front that is rented out but the tower will be placed in the rear of the property away from the home; and that the tenant is aware of the tower.

Mr. Petersohn testified that, typically, a technician would visit the site once a month at most; that the FAA has been informed of the tower as a proposed construction and the Applicant is currently awaiting the FAA's determination to see if the FAA will require the tower to be lit or painted; that he

does not foresee changes to the height of the tower; that the tower will be constructed to the minimum height requirement for network coverage; and that he is unaware of issues with neighbors.

Mr. Schubert stated that Mr. Minardi is a licensed engineer who signed the site plan; that the property is a long, narrow property; that the proposed compound for the telecommunications facility would be 65 feet by 65 feet and it would be completely fenced in by a six foot high fence; that the center monopole structure would be 145 feet in height from the ground to the top of the monopole, but then a four foot high lightning rod would be placed at the top making the whole structure 149 feet in height; that the setbacks are met, as they require that the setbacks are $\frac{1}{3}^{\text{rd}}$ of the height of the structure, which would be 48.3 feet; that there would be six antennas at the centerline of 140 feet and will have cables running down the center of the monopole to the equipment; that this equipment will be located in cabinets at the base of the monopole on a concrete pad; that there is no water or sewer hookup required, only electric and fiber hookups; that the Applicant is proposing to extend the current driveway from the front of the property to the rear where the tower will be; that there is a proposal for a diesel fueled generator to provide emergency backup; that the generator will only need to be run once or twice a week for about 15 minutes at a time to exercise the generator itself, otherwise it is only utilized in emergency cases; that the tower will be designed to accommodate two other collocators and up to three antenna rays; that there is no adverse impact on public health, safety, or welfare; that there is no water or sewer impact; that the use is a commercial use consistent with other commercial uses in the area; that there is no adverse impact on traffic as the only traffic will be for a monthly technician visit; and that neighbors have been informed of the proposal.

Mr. Minardi testified that he is an licensed engineer; that he sealed the plans; that he is familiar with the Application; and that the statements made by Mr. Schubert were true and correct.

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

Mr. Sharp noted to the Board that it must also consider Section 115-194.2 when considering the Application.

Mr. Williamson closed the public hearing.

Dr. Hitchens moved to approve the application for Case No. 13127 for the requested special use exception, pending final written decision, for the following reasons:

1. The special use exception will not substantially affect adversely the uses of neighboring and adjacent properties.

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

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

Case No. 13128 – Sea Air Village seeks variances from the separation distance requirements for proposed structures (Section 115-25 and 115-172 of the Sussex County Zoning Code). The property is located on the northwest side of Center Avenue within the Sea Air Village Manufactured Home Park. 911 Address: 19980 Center Avenue, Lot C86, Rehoboth Beach. Zoning District: AR-1. Tax Parcel: 334-13.00-310.00-22637

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

The Applicant is requesting the following variances:

- A 2.7 ft. variance from the 20 ft. separation distance requirement between the proposed manufactured home and the manufactured home on Lot C-84;
- A 6.6 ft. variance from the 20 ft. separation distance requirement between the proposed manufactured home and the landing on Lot C-84;
- A 5.6 ft. variance from the 20 ft. separation distance requirement between the proposed HVAC and the manufactured home on Lot C-84;
- A 9.5 ft. variance from the 20 ft. separation distance requirement between the proposed HVAC and the landing on Lot C-84;
- A 1.3 ft. variance from the 20 ft. separation distance requirement between the proposed manufactured home and the manufactured home on Lot B-85;
- A 3.5 ft. variance from the 20 ft. separation distance requirement between the proposed manufactured home and the shed on Lot B-85;
- A 2.1 ft. variance from the 20 ft. separation distance requirement between the proposed shed and manufactured home on Lot C-88; and
- A 2.0 ft. variance from the 20 ft. separation distance requirement between the proposed manufactured home and HVAC on Lot C-88.

Ms. Brittany Sou was sworn in to give testimony about the application.

Ms. Sou testified that the property is unique; that the uniquely narrow dimensions of this lot create a challenge placing the manufactured home and maintaining minimum separation between homes and accessory structures; that this lot was laid out with others in the community in the 1950s and 1960s prior to the current counting requirements for separation distances; that the lot sizes are small in comparison with the size of the modern manufactured home and a standard size floor plan has been selected for this home that is comparable to other new homes in the community, but the Applicant is still unable to place on the lot without crossing the required setbacks; that the narrow shape of the lot and the previous building on the surrounding adjacent lots make it difficult to place a

new manufactured home on the property consistent with others in the neighborhood while maintaining compliance with Sussex County's current zoning code; that the newly proposed dwelling is slightly longer than the one prior, but is not much wider than the previously approved unit, which had a large enclosed room added on to it; that the property cannot otherwise be developed; that the property cannot be developed in strict conformity with the Sussex County Zoning Code to place a normal size manufactured home that is consistent with other new homes in the Community; that a standard size shed is consistent with other new homes and sheds in the community, but it cannot do so without violating the separation distance requirements between neighboring manufactured homes and accessory structures; that the variances are necessary to enable reasonable use of the property and, without side variances, the property cannot be developed because the surrounding homes are within the lot setbacks; that this request is for minimal accommodation and much less than previously approved by the Board; that the exceptional practical difficulty was not created by the Applicant; that the property is quite narrow, which greatly limits the buildable area and the neighboring lots are also narrow, causing development of nearby lots to be nearer to the lot lines and neighboring homes; that it is impossible for the home to be placed on the property without violating the separation distance requirements; that the exceptional practical difficulty was created by the unique conditions of the property and the development of adjacent lots; that viewing the proposed survey, the need for variance is reduced from the prior footprint and that the separation distances between the primary structures is much larger; that the variances will not alter the essential character of the neighborhood, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare thereof; that these variances will add to the conformity of the community and to modernize homes within the community, which will subsequently add value and improve the characteristics of the community and neighborhood; that the home that was previously on the lot, was surrendered to the community after years of disrepair; that the variances are sought to the minimum variances necessary to afford relief and the variances requested represent the least modifications possible of the regulations; that the home that was previously there was abandoned and a much larger newer counterpart was placed; that the previous home cannot be rehabilitated without substantial expense and in order to maintain prior usage of the land; that the new manufactured home is narrower but longer than the prior manufactured home; that the prior manufactured home on the lot had an addition; that prior manufactured home was in a state of disrepair and was demolished; and that there have been no complaints from neighbors about the prior manufactured home's location.

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. 13128 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique physical conditions as it was laid out in the 1960s rather than today;
2. There is no possibility that the property can be developed in strict conformity with the Sussex County Zoning Code;
3. The variances are necessary to enable the reasonable use of the property;
4. The exceptional practical difficulty has not been created by the Applicant;
5. The structures are being located in the same location as the prior structures;
6. The variances will not alter the essential character of the neighborhood;
7. The variances will not substantially impair the appropriate use or development of adjacent property;
8. The variances represent the least modifications possible of the regulation at issue; and
9. The variances represent the minimum variances necessary to afford relief.

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

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

Case No. 13129 – Rose Marie Saggione seeks variances from the separation distance requirements for proposed structures (Section 115-25 and 115-172 of the Sussex County Zoning Code). The property is located on the southeast side of Sea Air Avenue within the Sea Air Village Manufactured Home Park. 911 Address: 19923 Sea Air Avenue, Lot B79, Rehoboth Beach. Zoning District: AR-1. Tax Parcel: 334-13.00-310.00-3262

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

The Applicant is requesting the following variances:

- A 7.6 ft. variance from the 20 ft. separation distance requirement between the proposed screened-in porch and the HVAC on Lot B-77;
- 7.6 ft. variance from the 20 ft. separation distance requirement between the proposed screened-in porch and the landing on Lot B-77; and
- A 11.2 ft. variance from the 20 ft. separation distance requirement between the proposed shed and the manufactured home on Lot B-77.

Rose Marie Saggione was sworn in to give testimony about the Application.

Ms. Saggione testified that there is a need for the variances because of the narrowness of the lots and, with the addition of a three-season room, there is no way it will be able to fit with the County Code; that the addition is a three-season room and not a screened-in porch; that the shed was existing

and, when she went to replace it with a larger one, she was informed that she would need a variance as it was placed 0.6' within the setback; that, with the circumstances and conditions of the lot, the probability of the land being developed is near impossible without variances; that the variances will not alter the character of the neighborhood as the structures would improve the look as it is in conformity with all of the neighboring homes as they have the same concept on their lots; that the community was created in the 1950s; that neighbors have similar additions to their homes; that the shed was originally placed in 2006 and was not put in correctly and, now, in order to place her new shed, it will need to be given a variance to come into compliance; that the new shed is going to be 8'x8' and is replacing her current 6'x6' shed and the reason she does not want it moved closer to the home is because then it will be difficult for the landscaping company that maintains the park to fit their equipment in between the home and the shed; that her daughter and her three children have moved into the home; that the additional space is needed for her family; that she bought the house in 2014; that the neighbors support the request; that there is one set of steps off the front of the addition; that she looked at a front yard addition but there was not enough space per her contractor; and that the shed will be located in the same spot as the prior shed.

Members of the Board discussed the Application and asked if the Applicant considered moving the three-season room to the front of the dwelling rather than the side as it appears there would be enough room to fit it there without needing any variances.

Ms. Saggione testified that her contractor advised her that it would not be a good idea to add the three-season room to the front of her home as there would not be enough room between the road and where the structure would end.

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

Mr. Williamson closed the public hearing.

Mr. Kingree moved to approve the application for Case No. 13129 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique physical conditions based on the original layout from the 1960s as a manufactured home park;
2. There is no possibility that the property can be developed in strict conformity with the Sussex County Zoning Code;
3. The variances are necessary to enable the reasonable use of the property;
4. The exceptional practical difficulty has not been created by the Applicant;
5. The variances will not alter the essential character of the neighborhood;
6. The variances will not substantially impair the appropriate use or development of adjacent property; and
7. The variances represent the least modifications possible of the regulation at issue.

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

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

Case No. 13130 – Johanna Rodionova seeks a variance from the side yard setback requirement for a proposed structure (Section 115-25 and 115-183 of the Sussex County Zoning Code). The property is located on the west side of Hudson Road. 911 Address: 37100 Hudson Road, Selbyville. Zoning District: AR-1. Tax Map: 533-17.00-74.05

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 the following variance:

- A 5 ft. variance from the 15 ft side yard setback on the south side for the proposed attached garage.

Johanna Rodionova, Pavel Rodionova, and Thomas Costello were sworn in to give testimony about the Application.

Ms. Rodionova testified that they purchased the home two years ago and love the house but they have found that they are outgrowing the space; that her husband works from home and they have a small child and their grandmother who all stay in the house; that they wanted to expand the square footage so they turned the attached garage into living area and now they are in need of a new garage for their vehicles; that the new garage will be placed on top of the blacktop driveway attached to the edge of the home; that the house was not placed straight in line with the property setbacks and, because of that placement, the new garage is crossing the setback line by five feet on the rear corner; that the uniqueness of the property and the strangely angled placement of the home restricts them from building the garage without needing a variance; that the property is also narrow; that the property cannot otherwise be developed because that is the only logical place to put the garage as it sits at the end of the driveway near the home; that this issue was not created by the Applicant as the home was built 20 years ago and it was placed in an awkward position in conjunction with the setbacks; that this garage will not alter the essential character of the neighborhood; that the property is not subject to an HOA; that all of the neighbors have their own unique properties and everyone is ok with them building this garage; that the minimum variance being requested is being established as the majority of the garage is within the buildable area and they are only looking for the least amount of space for the rear corner.

Mr. Costello testified that the Applicants contacted him to design the new structure and construct it; that, in September, the Applicants received permits to move ahead with the structure but

he had a misunderstanding of the setbacks, as he believed the setbacks were 10 ft., not 15 ft.; that the footers were dugout and poured and then the inspector informed them that they were outside of the setbacks and it halted all construction on the garage; that, as long as this receives approval from the Board, the garage can be completed; that the shed will be 10.2 feet from the side property line and the garage will be 10.4 feet from the side property line.

Mr. Sharp questioned why the Applicant did not look to putting the addition to the home somewhere else, rather than taking over the garage and building a new one; why the Applicants did not look into placing an addition in the rear of the property; and whether there was a tax ditch that would limit them.

Ms. Rodionova testified that the most feasible thing to do was to convert the garage into living space as it would cost less to convert a framed out space into living space than build from the ground up; that they could not place a new addition to the rear of the property as they have a tax ditch back there with an 80' building restriction line; that there is no well and septic on the property; that they plan to extend the driveway; that the Applicants designed the plan; and that Mr. Costello submitted permits.

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. 13130 for the requested variance, pending final written decision, for the following reasons:

1. The property has unique physical conditions based on the angled placement of the dwelling;
2. 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 the 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 impair the appropriate use or development of adjacent property;
7. The variance represents the least modification possible of the regulation at issue; and
8. The variance represents the minimum variance necessary to afford relief.

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

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

Case No. 13131 – Rt. 54 Hook & Slice Golf Driving Range, Inc. seeks a variance 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 on the south side of Lighthouse Road (Route 54). 911 Address: 38288 London Avenue, Selbyville. Zoning District: AR-1. Tax Map: 533-18.00-61.01

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 Applicant is requesting the following variance:

- A 16 ft. variance from the 20 feet rear yard setback requirement for a proposed warehouse.

Rick Tucker and Hans Medlarz were sworn in to give testimony about the Application.

Mr. Medlarz testified that he is representing the County Engineering Department and about three and half years ago the County Council approved the exchange of land between the County and the Applicant; that the County obtained the stormwater management pond and some acreage to do environmental enhancements on the rear of the Applicant's property that was approved in 2005 for ten buildings; that, when the County took possession of the land, there were three buildings not yet built; that the County agreed that, when they put in the pond, the County would place a fence along the top of the bank; that the Applicant is ready to submit the building permit for the tenth building and the County is ready to submit for the permit for the fence along the top of the bank and it has been discovered that the two surveys collide and there is not enough room to have the 20 ft. setback that is required; that there are two reasons which created this issue; that, over the 20 years, the buildings were built in various stages, one or two buildings at a time; that the original plan versus where the building and pond ended up are a few feet farther north; that the top of bank did not coincide with the original 2005 site plan and, if you add the two together, 16 ft. have been lost; that there is enough room between the fence and the side of the building for the Applicant to mow the grass on his side and enough room on the top of bank to mow to the fence line; that there are two ways we could avoid needing the variance, either rebuild the pond and move the whole bank, which would mean the County needed to get a permit from the Sussex Conservation District to reduce the pond, or the Applicant can cut 16 ft. off his approved building, which he had an approved site plan for; that these two are relatively immovable objects, hence the request for the variance.

Mr. Tucker testified that the issue was discovered when the last building permit was pulled; that the Applicant has obtained all agency approvals; and that the warehouse will be used commercially.

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. 13131 for the requested variance, pending final written decision, for the following reasons:

1. The property has unique physical conditions due to the change in the lot line;
2. 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 the 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 impair the appropriate use or development of adjacent property;
7. The variance represents the least modification possible of the regulation at issue;
8. The variance represents the minimum variance necessary to afford relief; and
9. The variance represents the least modification of the regulation at issue.

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

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

ADDITIONAL BUSINESS

Ms. Norwood presented the draft of meeting dates for 2026.

Motion by Mr. Lovenguth, seconded by Mr. Kingree to table the discussion on the schedule for 2026 until the next Board meeting. Motion carried 4 – 0.

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

Meeting adjourned at 8:06 p.m.