

MINUTES OF SEPTEMBER 8, 2025

The regular meeting of the Sussex County Board of Adjustment was held on Monday, September 8, 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

PUBLIC HEARINGS

Case No. 13103 – Jill Snyder 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 Golden Avenue within the Sea Air Village Manufactured Home Park. 911 Address: 20011 Golden Avenue, Lot L61, Rehoboth Beach. Zoning District: AR-1. Tax Parcel: 334-13.00-310.00-57198

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

The Applicant is requesting the following variances:

- A 9.8 ft. variance from the 20 ft. separation requirement between the proposed deck and the manufactured home on Lot L59;
- A 11.8 ft. variance from the 20 ft. separation requirement between the proposed carport and the manufactured home on Lot L59; and
- A 3.2 ft. variance from the 20 ft. separation requirement between the proposed steps and the manufactured home on Lot L59.

Jill Snyder was sworn in to give testimony about the Application.

Ms. Snyder testified that she is looking to add a covered porch to the side of the home along with a carport; that the porch is needed to accommodate a table to entertain as the arrangements within the home are very small and the carport is necessary to cover her vehicle from the elements as there

is no garage on the property; that the mobile home sits to the southwest side of the property line and there is only enough room to place these structures on the northeast side of the property; that there is no plan to enclose the deck at this time and the two small porches on the left side of the property will be removed and one large deck will be built in their place; that this lot received variances prior to her purchasing the manufactured home to place the new structure closer than the required separation for the dwelling; that there are no trees on the property; that she purchased the manufactured home 6 months ago; that there is no bug problem on the property; that the shed will remain; that the structures will match the roof line of the house; that the deck will measure 10 feet by 36 feet; that the prior manufactured home was removed by Sea Air Village; that the manufactured home on Lot L-59 was there prior to her purchase of the home; that the owner of the home on Lot L-59 is a seasonal tenant who is not the property owner; that the neighbor on Lot L-59 does not object to the request; and that there are other decks in the neighborhood.

Mr. Sharp informed the Board that Sea Air Village is an older community; that, in 2007, the County found that all structures in the community were non-conforming structures because of the setback; that structures and homes are supposed to have a 20 foot separation distance from other homes; that the Board periodically receives variance applications for new manufactured homes that have come in, such as the one on this lot, where the home replaces an older manufactured home; and that, because of the location of some of the other structures on other properties, the Board has found, at times, that homes could not be placed on the lots without encroaching on the separation requirements.

Mr. Sharp asked if the Applicant had considered putting in a patio rather than a deck or downsizing the deck in general.

Ms. Snyder testified that a patio would not work as the yard is weed invasive and she wants to be elevated off the ground to minimize the number of bugs and creatures that would bother her; that she is maximizing the space that she has to allow for a larger patio to entertain; and that her dining room table seats 6 people.

Mr. Sharp asked about parking with the addition of a carport to the property.

Ms. Snyder testified that, with the addition of the carport, she will be able to fit two cars in her driveway and there is plenty of public parking around the development for visitors if needed; and that Sea Air Village gave approval for the proposal with the condition of approval from the County.

Mr. Lovenguth asked for the actual dimensions of the deck.

Ms. Snyder testified that the deck will measure twenty-four (24) feet long; that there are two (2) four-foot landings with stairs on each end making the entire structure thirty-six (36) feet in length; that the entrance to the home is to the rear of the deck; that she leases the land; and that the landlord has approved the proposal.

Daryl Bensinger was sworn in to give testimony in opposition to the Application.

Mr. Bensinger testified that he is the owner of the manufactured home on Lot 59 and has owned that home for forty (40) years; that he lives in Pennsylvania and uses Lot 59 as a seasonal residence; that his home sits 2 feet from the shared lot line and his concern is that, if this application is granted, he will then not be able to upgrade his trailer and keep the setbacks that are in place currently; that it will create the domino effect and he will be limited on what he can do in the future; that the newer mobile homes are elevated 3 feet and older ones are elevated only 2 feet; that, by adding the deck, they will be sitting above his windows looking into his home; that the lighting from the deck will be shining right into his home while the Applicant is on the deck; that older manufactured homes in the neighborhood have decks and additions but those homes are narrower and shorter; and that his window is 4-8 feet from ground level.

Ms. Snyder testified that the deck will be 28.3 inches above ground; that the neighboring home is similar in length to her home; and that she does not plan to add lights but will retain the light by the door.

John McMahon was sworn in to give testimony about the Application.

Mr. McMahon testified that he is the Applicant's contractor; that he is working with the Applicant on the design of the deck; that the deck will be twenty-eight (28) inches from the ground to the top of the deck board and from the ground to the bottom of the finished header will be nine (9) feet in height; and that a white vinyl soffit is proposed.

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

Mr. Williamson closed the public hearing.

Mr. Lovenguth moved to deny the application for Case No. 13103 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique physical conditions that have already been granted a variance for the manufactured home and related structures;
2. The Applicant has failed to demonstrate that the property cannot be developed in strict conformity with the Sussex County Zoning Code;
3. The variances are not necessary to enable the reasonable use of the property;
4. The exceptional practical difficulty is being created by the Applicant;
5. The variances will alter the essential character of the neighborhood;
6. The variances will be detrimental to the public welfare;

7. The approval of the variances would lead to a domino effect whereby neighboring properties will also need variances; and
8. The variances sought are not the minimum variances necessary to afford relief.

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

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

Case No. 13110 – Kevin Martin 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 southeast side of Bayview West within the Bay View Estates Subdivision. 911 Address: 38853 Bayview West, Selbyville. Zoning District: AR-1. Tax Map: 533-19.00-185.00

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

The Applicant is requesting the following variances:

- A 4.5 ft. variance from the 10 ft. side yard setback requirement on the south side for a proposed pool; and
- A 5 ft. variance from the 10 ft. side yard setback requirement on the south side for a proposed outdoor shower and pool house.

Kevin Martin was sworn in to give testimony about the Application.

Mr. Martin testified that he is applying for variances so that he can put in a pool in his yard; that his HOA only requires a five (5) foot setback while the County is requiring ten (10) feet; that the property is unique in size as it is slightly over 10,000 square feet; that, if you remove the areas of the property which are subject to easements, there is approximately 9,000 square feet on the lot; that, because of where the house was built and the requirements for the homeowner's association, these variances are necessary; that he cannot put the pool in the front yard due to the restrictive covenants; that he cannot put the pool behind the house because the house was built too close to the canal and there are kingpins that come in 10.5 – 11 ft. from the bulkhead; that, on the other side of the house, the property line is 12 ft. at the front and then down to 10 ft. at the rear; that the property is not actually rectangular which makes it tough to put up a square building on this property which he did not create; that the exceptional practical difficulty was not created by the Applicant; that the variances will not alter the essential character of the neighborhood; that there are other pools in the neighborhood; that there are small lots in the neighborhood; that neighbors support the request; that the variances are the minimum variances necessary to afford relief; that, until the permit was pulled, he did not know that the County was different than the HOA requirements and he had to stop construction of the pool to

allow for some design changes to happen; that he had gone back to his pool company and attempted to construct the pool within the setbacks but moving the structure was not possible due to the placement of the house and the existing fireplace located on that side of the house; that the pool would then be sitting right up against the house and foundation which is not feasible; that there will be a five foot walkway of pavers around the pool, which creates the five foot of space between the pool and the house; that the outdoor shower and storage area will not have any roof over them and will only have exterior entrances; that the pool is needed for his health as he was diagnosed with spinal stenosis and arthritis and it is best if he keeps his body moving as much as possible; that the owner of Lot 39 supports the request; that a prior owner built the house; that the bulkhead is made of riprap and extends to the property line; that there is 11 feet from the bulkhead to the kingpin and that area cannot be developed; that his mother is 78 years old and the proposed accessory dwelling unit is for her; that the deck will be attached to the ADU and the house; that the pool is health-related; that there is no septic system on the property as the property uses sewer; that there is a well located in the front yard; that the outdoor shower will not attach to the ADU; that he will extend the fence on the lot line; and that other pools in the neighborhood have pools in the rear yard because the houses on those properties are closer to the front yard setback line.

Ms. Norwood stated that no variance is needed for the ADU.

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

Mr. Williamson closed the public hearing.

Dr. Hitchens moved to approve the application for Case No. 13110 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique physical conditions due to the house and its odd placement on the lot;
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;
7. The variances will not be detrimental to the public welfare;
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 Dr. Hitchens, seconded by Mr. Lovenguth, carried that the **variances be approved for the reasons stated**. Motion carried 4 - 0.

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

Case No. 13111 – Paul and Cynthia McMullen seek variances from the separation distance requirements for a proposed structure (Section 115-25 and 115-172 of the Sussex County Zoning Code). The property is located on the northwest side of Atlantic Avenue within the Sea Air Village Manufactured Home Park. 911 Address: 19940 Atlantic Avenue, Lot E28, Rehoboth Beach. Zoning District: AR-1. Tax Parcel: 334-13.00-310.00-57921

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

The Applicants are requesting the following variance:

- A 12.2 ft. variance from the 20 ft. separation distance requirement between the proposed deck and HVAC on Lot E30; and
- A 11.7 ft. variance from the 20 ft. separation distance requirement between the proposed deck and the manufactured home on Lot E30.

Cynthia McMullen was sworn in to give testimony about the Application.

Ms. McMullen testified that the Applicants are looking to place a 10' x 27' covered deck which will be attached to their existing home; that, by doing so, they will not meet the separation distance requirement; that the neighboring home sits close to the property line but the neighbor has no access on that side of the house so the neighbor will not be affected; that the neighbor is in support of the deck being built; that the purpose of the deck is to provide a safe and practical outdoor living space for the Applicants and to provide better access to the home; that the home currently has 2 doors with small landings; that the Application meets the criteria for a variance as the property has unique physical conditions that are generally not applicable to other lots in the area; that their lot is set off because they had a smaller mobile home there before and, when this one was put in, it is bigger and they set it off-center; that the proposed deck does not alter the essential character of the neighborhood; that the deck is consistent with the zoning regulations; that they purchased the home in April 2025; and that the home was placed on the lot in April 2025.

Mr. Lovenguth asked if there a reason why the Applicants are not putting in a paver patio instead of lifting it up.

Ms. McMullen testified that it takes five (5) steps to get out of either door of her home and it makes it difficult when carrying things to have such a small landing to come in and out of; and that they did not want to downsize the deck because at the size they are proposing it is large enough to entertain family and provide extra seating space.

Mr. Sharp noted that 12 variances were approved by the Board in December 2024 for the placement of the home, HVAC, and shed.

Mr. Sharp questioned whether any other new homes within the development have decks added on; whether the deck would affect the neighbor's ability to develop its lot; that, if this request were approved, the Applicants' deck would be 5.7 ft. from the shared property line the neighbor on Lot E30; that, if the neighbor had to replace its mobile home on that property they would then have to be 15 ft. away from their property line in order to place any structure; whether the placement of the deck would alter the essential character of the neighborhood; and whether the Applicants considered an option of placing a larger landing off the two doors each leading down to a patio in between.

Ms. McMullen testified that there is no dining room in the home; that the Applicants wanted a space for a large table and chairs; that the deck needs to be the proposed length to access the doors; that the landlord has approved the improvements; and that the Applicants did not like the aesthetics of the patio with landing.

Sarah Russ was sworn in to give testimony in support of the Application.

Ms. Russ testified that she is the real estate agent that has been working with the McMullens on this home purchase; that, prior to buying the property, the Applicants inquired about putting in this deck and were told that it was possible; that they followed the process of going through due diligence and were under the impression that this was allowed with some minor processes; and that they found out after going to settlement that it would require the variances to be compliant with the County Code.

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

Mr. Williamson closed the public hearing.

Mr. Kingree moved to deny the application for Case No. 13111 for the requested variances, pending final written decision, because the Applicants failed to meet the standards for granting a variance.

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

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

Case No. 13112 – Ernie Ritchey and Robert Nevrlly seek a variance from the side yard setback requirements for a proposed structure (Section 115-25 and 115-183 of the Sussex County Zoning Code). The property is located on the northwest side of Canal Road within the Rehoboth Manor

Subdivision. 911 Address: 20612 Canal Road, Rehoboth Beach. Zoning District: GR. Tax Map: 334-19.12-21.11

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 Applicants are requesting the following variance:

- A 4.8 ft. variance from the 10 ft. side yard setback requirement on the southwest side for a proposed addition.

Robert Nevrlly was sworn in to give testimony about this application.

Mr. Nevrlly testified that the Applicants are requesting a variance for a kitchen project; that the home is situated on a lot that consists of about 12,000 sq. ft. with required setbacks of 10 ft. for the sides and rear; that the lot has a geometric rhombus shape which limits the options for construction in the front and back areas of the home; that this request will not interfere with any future projects as the Applicants have no plans to build more; that the Applicants had stormwater management concerns which were addressed with renovations in 2016 and 2017; that the challenge the Applicants face is related to the positioning of the home which is closer to the west side of the property; that the current kitchen is located on this side, prompting the request for a variance to reduce the setback from 10 feet to 5 feet; that this adjustment would provide the Applicants with an additional 5-6 in depth and 12 feet in length for their future kitchen area; that the additional square footage the Applicants plan to create is going to result in a more spacious kitchen with much needed counter space; that kitchen is too small for the Applicants' needs; that the only feasible option for the Applicants is to build on the west side as they do not want to encroach upon the dining and living areas; that the advantage of the request is that the Applicants will not be encroaching on their neighbors to the west side as this variance is adjacent to the neighbor's driveway and the neighbor's house is situated a little farther back; that the neighborhood is eclectic; that there is no homeowners association; that a prior owner built the home; that the neighbor supports the request; that the neighbors appeared to like the look of what was being proposed; that the addition will be a small bump out measuring 12 feet by 6 feet; that plumbing is located on that side of the house; that the need for the addition to this side of the home is needed as that is the current location of not only the kitchen already but all of the utility lines are located on that side too; that the need for the expansion of the kitchen comes along after starting to care for senior dogs with disabilities and needing the extra room to prepare their food and medicine in a large enough area.

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. 13112 for the requested variance, pending final written decision, for the following reasons:

1. The property has unique physical conditions due to the placement of the house by a prior owner;
2. There is no possibility 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 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; and
7. The variance will not be detrimental to the public welfare.

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

The vote by roll call: Dr. Hitchens – yea, Mr. Kingree – yea Mr. Lovenguth – yea, and Mr. Williamson – no

Mr. Williamson noted that he believes that the exceptional practical difficulty has been created by the Applicants and that the approval of the variance will alter the essential character of the neighborhood.

Case No. 13113 – Kings Creek Country Club, Inc. seeks variances from the front and side yard setback requirements for proposed structures (Section 115-25 and 115-183 of the Sussex County Zoning Code). The property is located on the southeast side of Kings Creek Circle within the Kings Creek Country Club. 911 Address: 98 Kings Creek Circle, Rehoboth Beach. Zoning District: AR-1. Tax Map: 334-13.00-1158.00

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

The Applicant is requesting the following variances:

- A 24.5 ft. variance from the 30 ft. front yard setback requirement for proposed operations building;
- A 2.7 ft. variance from the 15 ft. side yard setback requirement on the southwest side for the proposed operations building;
- A 17.9 ft. variance from the 30 ft. front yard setback requirement for the proposed ESD wash; and
- A 15.4 ft. variance from the 30 ft. front yard setback requirement for the proposed

fueling station.

Glenn Mandalas, Esq., presented the Application on behalf of the Applicant.

Mr. Mandalas stated that he is representing Kings Creek Incorporated and that in attendance with him are Mark Haschmeyer, who is the King's Creek Golf Course Superintendent, and Roger Gross, who is a professional engineer; that the Club is seeking variances that will allow additional improvements to its maintenance area on Kings Creek Circle; that the improvements include a new operations building, a wash rack, a fueling station, and some additional parking; that the maintenance yard currently is located off Johnson Branch with water and significant wetlands and then a slope off that portion of the property; that the slope is approximately 7 to 9 feet to the wetlands; that, by the time you get into the buffers and the topography of the site, it is difficult to find a buildable envelope on the site; that the water surrounds the site where the new construction will be and the existing building that's on the property; that where the new building would be located is looking directly across the street from Kings Creek Circle and it is pretty much open space there so no neighbors will be offended by anything happening on the on the property; that most of these improvements are to the south of the site and will not affect the owner closest to it; that that owner has submitted a letter of support, did request a few things, including some landscape buffers, which the Applicant agreed to do; that the need for these variances comes as a result of the increase in demand for meticulous golf care maintenance to stay competitive in the business; that the number of employees has grown from five or six to about thirty, which requires a larger maintenance building to accommodate them; that the building will have breakrooms and locker rooms as well; that the side yard variance is needed as the lot is adjacent to the Sussex County pump station; that the Applicant contacted John Ashman from the Sussex County Engineer's Office and he supported the request; that the wash rack is interesting because of the environmental sensitivity of this site being that it is surrounded by wetlands; that the system they are going to put in recycles the water so that no contaminants will go into the Johnson Branch; that the fuel station will be a relocation of the current fueling station to accommodate the other improvements on the site; that the criteria needed for variance is as follows; that there are some serious topographical constraints with the wetlands; that the property is uniquely shaped as it comes way in with a choke point; that, to satisfy setback requirements, there is no other location on the property where these improvements could be located that would do any better as far as a setback perspective goes; that the property cannot otherwise be developed; that, due to the constraints of this property with its unique triangular shape with a choke point and the topography makes it very difficult to develop it in a way that strictly complies with the Code; that the exceptional practical difficulty was not created by the Applicant; that the need for the variances is created again by those unique physical circumstances of the property itself, including the significant wetlands, steep topography, and the irregular shape of the parcel; that the decision to update and expand the maintenance area is a necessary response to the natural growth of the Club itself and the need to maintain it in a way that has been required by today's standards; that the variances will not alter the essential character of the neighborhood; that the variances will enhance the character of the neighborhood given that it is a golf course and there is a need for increased maintenance in the area; that King's Creek Homeowners Association has issued an approval letter, and the adjacent landowner to the north has also issued a

letter of approval; that there are eight letters that have been submitted through the portal all in support and no opposition; that these variances are the minimum variances necessary to afford relief and are the least modifications possible to accommodate the needs of the Club; and that the facility will be regulated by the State.

Mark Haschmeyer was sworn in to give testimony about the Application.

Mr. Haschmeyer testified that water station will be used to wash the equipment, with a separate site for our chemical use that is contained to regulations to avoid spillage; that the ESD site will be just for washing equipment and it recycles everything; that equipment washing is a big contention for point pollution and by adding this, we are keeping everything contained; and that that is part of the reason to push it away from the wetlands so all chemical fertilizers and those kind of operations are done at a separate location.

Mr. Mandalas stated that the buffer that is being proposed will be placed along the boundary of the neighbor to the north and the site.

Roger Gross was sworn in to give testimony about the Application.

Mr. Gross testified that the frontage of the property line is about 20 ft. off King's Creek Circle but it varies along the property; and that the road itself is very lightly traveled with more pedestrian traffic or golf course than vehicular traffic.

Mr. Gross affirmed the statements made by Mr. Mandalas as true and correct.

Mr. Haschmeyer testified that there are no visual concerns; that the building to the rear houses equipment; and that they wanted to keep away from the wetlands.

The Board found that five people appeared in support of the Application 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. 13113 for the requested variances, pending final written decision, for the following reasons:

1. The property has unique physical conditions due to the wetlands;
2. There is no possibility 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 Applicants;
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;
7. The variances will not be detrimental to the public welfare;
8. The variances represent the minimum variances necessary to afford relief; and
9. The variances represent the least modifications possible of the regulation at issue.

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

ADDITIONAL BUSINESS

None

Meeting adjourned at 7:53 p.m.