

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: DIANA TYSON

(Case No. 11726)

A hearing was held after due notice on February 29, 2016. The Board members present were: Mr. Dale Callaway, Mr. John Mills, Mr. Jeff Hudson, Mr. Norman Rickard, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for a variance from the separation requirement between units in a mobile home park.

Findings of Fact

The Board found that the Applicant is seeking a variance of ten (10) feet from the twenty (20) feet separation requirement between units in a mobile home park for a proposed shed. This application pertains to certain real property located the east side of A Street approximately 30 feet east of Old Landing Road (911 Address 21801 A Street, Rehoboth Beach); said property being identified as Sussex County Tax Map Parcel Number 3-34-19.00-1.01 Unit 55064.

1. The Board was given copies of the Application, a portion of the tax map of the area, and a survey dated October 30, 2015.
2. The Board found that the Office of Planning & Zoning had not received any correspondence in support of or in opposition to the Application.
3. Diana Tyson and Rio Almeda were sworn in to testify about the Application.
4. The Board found that Ms. Tyson testified that she purchased the home in August 2015. The existing manufactured home is small and the lot is quite small and narrow. There is not much storage in the existing manufactured home.
5. The Board found that Ms. Tyson testified that Mr. Almeda plans to use the shed as a workshop.
6. The Board found that Ms. Tyson testified that the proposed shed will measure 10 feet by 16 feet and the rear yard is the preferred location for the proposed shed.
7. The Board found that Ms. Tyson testified that other sheds in the park are also at the rear of the homes.
8. The Board found that Ms. Tyson testified that, when she purchased the manufactured home, the proposed shed was included.
9. The Board found that Krista Fluharty was sworn in and testified in support of the Application.
10. The Board found that Ms. Fluharty testified that she is the former manager of the park and she handled the settlement for the Applicant.
11. The Board found that Ms. Fluharty testified that the lot is smaller than other lots in the park and that the Applicant did not place the dwelling on the lot. The placement of the home makes this Property unique.
12. The Board found that Ms. Fluharty testified that the proposed location and style of the shed is similar to other sheds within the neighborhood.
13. The Board found that Ms. Fluharty testified that the variance will not alter the character of the neighborhood.
14. The Board found that Ms. Fluharty testified that the Property cannot be otherwise developed.
15. The Board found that Ms. Fluharty testified that the difficulty was not created by the Applicant.
16. The Board found that Ms. Fluharty testified that the variance requested is the minimum variance to afford relief.

17. The Board found that one (1) party appeared in support of the Application.
18. The Board found that no parties appeared in opposition to the Application.
19. Based on the findings above and the testimony and evidence presented at the public hearing and the public record, which the Board found credible, persuasive, and un rebutted, the Board determined that the application met the standards for granting a variance. The findings below further support the Board's decision to approve the Application.
 - a. The Property is unique due to its small size as it is one of the smaller lots in the neighborhood. The small size of the lot has created an exceptional practical difficulty for the Applicant who seeks to place a shed on the Property consistent with others in the neighborhood but cannot do so in compliance with the Sussex County Zoning Code. The situation is also unique because neighboring homes have been placed on other lots and the Applicant has no control over the placement of those homes.
 - b. Due to the uniqueness of the Property and the placement of the manufactured home on a neighboring lot, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The Applicant proposes to construct a reasonably sized shed consistent with other sheds in the neighborhood but is unable to do so without violating the separation distance requirements between mobile homes. The variance is thus necessary to enable reasonable use of the Property. The Board is convinced that the shape and location of the shed are also reasonable (which is confirmed when reviewing the survey) and that the variance is necessary to enable the reasonable use of the Property. The Applicant intends to use the space for much needed storage and a workshop.
 - c. The exceptional practical difficulty was not created by the Applicant. The Applicant did not place the manufactured home on the Property and was led to believe that she could place a shed on the Property. The Applicant also did not place the mobile home on the adjacent lot so close to the property line. The unique conditions of the Property and the development of adjacent lots have created an exceptional practical difficulty for the Applicant who seeks to place a reasonably sized shed on the Property.
 - d. The variance 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. The Board is convinced that the shed will not have a negative impact on the neighborhood. No evidence was presented which would indicate that the variance would somehow alter the essential character of the neighborhood or be detrimental to the public welfare. Rather, the former manager of the mobile home park testified that are similar sheds in the neighborhood and that the proposed shed will not alter the character of the neighborhood.
 - e. The variance sought is the minimum variance necessary to afford relief and the variance requested represents the least modification possible of the regulation at issue. The Applicant has demonstrated that the variance sought will allow the Applicant construct a reasonably sized shed on the Property.

The Board granted the variance application finding that it met the standards for granting a variance.

Decision of the Board

Upon motion duly made and seconded, the variance application was approved. The Board Members in favor were Mr. Dale Callaway, Mr. Jeff Hudson, Mr. John Mills,

Mr. Norman Rickard, and Mr. Brent Workman. No Board Members voted against the Motion to approve the variance application.

BOARD OF ADJUSTMENT
OF SUSSEX COUNTY


Dale Callaway
Chairman

If the use is not established within one (1)
year from the date below the application
becomes void.

Date April 5, 2016