

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: POT-NETS HOMES, LLC

(Case No. 11745)

A hearing was held after due notice on April 4, 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 6.76 feet from the twenty (20) feet separation requirement between units in a mobile home park. This application pertains to certain real property located the southwest corner of River Road and Pinebrine Road in Pot Nets Bayside (911 Address: 34434 River Road, Millsboro); said property being identified as Sussex County Tax Map Parcel Number 2-34-30.00-2.00-55123.

1. The Board was given copies of the Application, pictures of the Property, a Manufactured Home Placement Permit dated March 25, 2015, and a portion of an undated survey.
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. James Kuhn was sworn in to testify about the Application.
4. The Board found that Mr. Kuhn testified that a new manufactured home was placed on Lot 111 as a sales model. The home meets all setback requirements and the Applicant intends to sell the home.
5. The Board found that Mr. Kuhn testified that the shed on Lot 58, which is adjacent to Lot 111, is only two (2) feet from the lot line. The manufactured home on Lot 58 was placed in 1964 and the shed was placed in 1972. The setback requirements were not established at that time.
6. The Board found that Mr. Kuhn testified that the home on Lot 111 meets all setback requirements for Lot 111 except for the separation distance between the home and the shed on Lot 58.
7. The Board found that Mr. Kuhn testified that the Applicant offered to remove or relocate the shed but the owners of Lot 58 refused. The shed is too old to move without damaging or destroying the structure.
8. The Board found that Mr. Kuhn testified that offsite storage would create a hardship for the current owners of Lot 58 and the location of the existing manufactured home on Lot 58 does not allow a new shed to be placed in conformity.
9. The Board found that Mr. Kuhn testified that, if the variance is granted, the issue will resolve itself in the foreseeable future. When the current homeowners on Lot 58 no longer live there, the ground lessor of Pot Nets will remove all structures on Lot 58 – at which time there will no longer be a need for the variance.
10. The Board found that Mr. Kuhn testified that the variance will not alter the character of the neighborhood.
11. The Board found that Mr. Kuhn testified that the shed has a lean-to which brings it closer to the property line.
12. The Board found that Mr. Kuhn testified that a new home could be placed on Lot 58 in compliance with the Sussex County Zoning Code.

13. The Board found that Mr. Kuhn testified that a fence for Lot 58 encroaches into Lot 111.
14. The Board found that Mr. Kuhn testified that separation distance requirement was overlooked when the home on Lot 111 was placed.
15. The Board found that Mr. Kuhn testified that the home on Lot 111 measures 30 feet by 74 feet and is multi-sectional.
16. The Board found that Mr. Kuhn testified that smaller homes have been replaced with larger homes and lots have been combined in Pot Nets in recent years. Most of the homes in this area have been replaced – with the exception of a few homes like the one on Lot 58.
17. The Board found that no parties appeared in support of or in opposition to the Application.
18. The Board tabled the Application until April 18, 2016, at which time the Board discussed and voted on 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 unrebutted, 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 as it has road frontages on two sides which thereby create an unusual building envelope. The unusual building envelope is exacerbated because the Property is quite small. Additionally, the lot is adjacent to another lot in the community which was developed in the early 1970s. The adjacent lot has a shed which was placed only two feet from the property line separating the two lots. The home which was placed on the Property is too close to the shed. The location of the shed on adjacent property and the unusual building envelope have created an exceptional practical difficulty for the Applicant who seeks to retain a dwelling on the Property but cannot do so in compliance with the Sussex County Zoning Code.
 - b. Due to the uniqueness of the Property and the placement of the shed on a neighboring lot, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The Applicant proposes to retain a reasonably sized dwelling consistent with other newer homes 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 dwelling are also reasonable (which is confirmed when reviewing the survey).
 - c. The exceptional practical difficulty was not created by the Applicant. The Applicant did not place the shed on the adjacent lot nor did the Applicant create the small building envelope. The neighboring property was developed many years ago with different zoning requirements. The shed was thus placed closer to the property line than would be allowable under current zoning regulations. The unique conditions of the Property and the development of the adjacent lot have created an exceptional practical difficulty for the Applicant who seeks to retain a reasonably sized dwelling 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 dwelling will not have a negative impact on the neighborhood. The unrebutted testimony demonstrates that the dwelling is similar to other newer homes in 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. Notably, there was no objection noted by the owner of the shed on Lot 58.

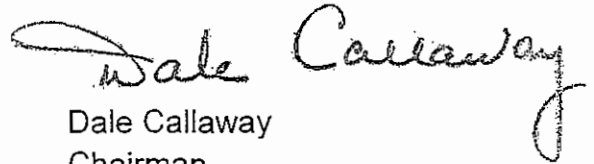
- e. The variance sought is the minimum variance necessary to afford relief and the variance requested represents the least modification possible of the regulation at issue. The Applicant has demonstrated that the variance sought will allow the Applicant retain a reasonably sized dwelling on the Property. No additions to the dwelling are planned.

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. Norman Rickard, and Mr. Brent Workman. Mr. John Mills 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 June 21, 2016