

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: SHEILA JACKSON

(Case No. 11756)

A hearing was held after due notice on April 18, 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 front yard setback requirement.

Findings of Fact

The Board found that the Applicant is seeking a variance of 16.2 feet from the forty (40) feet front yard setback requirement for a proposed manufactured home. This application pertains to certain real property located on the south side of Sandy Cove Drive approximately 50 feet east of Martin Road (911 Address: 38197 Sandy Cove Road, Ocean View); said property being identified as Sussex County Tax Map Parcel Number 1-34-9.00-410.00.

1. The Board was given copies of the Application, a survey dated January 20, 2016, and a portion of the tax map.
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. The Board found that Gil Fleming was sworn in to testify about the Application.
4. The Board found that Mr. Fleming testified that an existing 1973 manufactured home on the Property had to be removed due to severe damage from a tree which rendered the home unusable.
5. The Board found that Mr. Fleming testified that, due the Applicant's medical issues and tight budget, Oakwood Homes offered the proposed unit at a price she can afford. Unfortunately, the proposed dwelling cannot fit within the building envelope on the lot.
6. The Board found that Mr. Fleming testified that this 16 feet by 72 feet manufactured home is the only one Oakwood Homes can offer at an affordable price for the Applicant. He has no other singlewide mobile home which he could sell to the Applicant.
7. The Board found that Mr. Fleming testified that the prior mobile home measured 12 feet by 60 feet and no homes of that size are sold now.
8. The Board found that Mr. Fleming testified that, in order to comply with the setback requirements, the Applicant would need a specially built manufactured home – which would be cost prohibitive.
9. The Board found that Mr. Fleming testified that there are other dwellings in the area which encroach into the front yard setback area.
10. The Board found that Mr. Fleming testified that the dwelling will comply with the side yard and rear yard setback requirements.
11. The Board found that Mr. Fleming testified that the Property is unique because it was developed at a time when mobile homes were smaller. The building envelope for the Property is small.
12. The Board found that Mr. Fleming testified that the difficulty was not created by the Applicant.
13. The Board found that Mr. Fleming testified that the variance requested will not alter the character of the neighborhood. Rather, the dwelling will be an improvement over the prior dwelling on the lot.

14. The Board found that Mr. Fleming testified that the variance requested is the minimum variance to afford relief and the variance is the least modification of the regulation at issue.
15. The Board found that Mr. Fleming testified that the shed has been removed from the Property.
16. The Board found that no parties appeared in support of or in opposition to the Application.
17. 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 situation is unique because the existing dwelling was rendered uninhabitable after a tree fell on it. The Applicant suffers from medical problems and has a limited budget. She consulted with Oakwood Homes about options for replacing the singlewide manufactured home and found a unit which will meet her limited budget. The unit, however, does not meet the setback requirements. The Property itself is unique because it is small and a significant portion of the front yard of the Property is within the right-of-way line for the adjacent road. The Board finds that the unique physical conditions of the Property have created an exceptional practical difficulty for the Applicant who simply seeks to replace her home which was destroyed by an Act of God.
 - b. Due to the uniqueness of the Property and the situation, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The existing dwelling needs to be replaced due to its condition and the Applicant is unable to replace it with a manufactured home which will fit within the building envelope. The testimony confirms that the manufactured home is consistent with singlewide manufactured homes being marketed but the home will not fit within the building envelope. The Board notes that the Applicant has a tight budget and suffers from medical problems which greatly limit her ability to pay for a different home. The Board is convinced that the variance is necessary to enable the reasonable use of the Property as the variance will allow a reasonably sized manufactured home to be placed on the Property. The Board is convinced that the shape and location of this home are reasonable, which is confirmed when reviewing the survey provided by the Applicant.
 - c. The exceptional practical difficulty was not created by the Applicant. The Applicant did not cause the existing manufactured home to be destroyed nor did the Applicant create the size of the lot and its small building envelope. The unique situation and physical conditions of the Property have created the exceptional practical difficulty for the Applicant.
 - 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 manufactured home will have no effect on the character of the neighborhood. The home will replace a 1973 model manufactured home and will likely enhance the neighborhood. Furthermore, 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.
 - 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 to place the manufactured home on the Property.

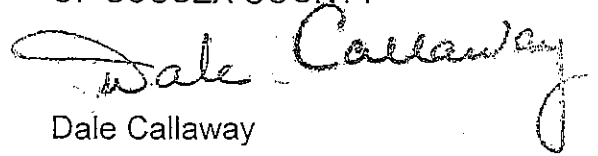
- f. The Board also notes that the shed shown on the survey has been removed.

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 Member 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.