

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: SYBIL LUDEN

(Case No. 11788)

A hearing was held after due notice on June 20, 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 2.1 feet from the twenty (20) feet separation requirement between units in a mobile home park for an existing screen porch, a variance of four (4) feet from the twenty (20) feet separation requirement between units in a mobile home park, and a variance of 0.2 feet from the twenty (20) feet separation requirement between units in a mobile home park from an existing shed. This application pertains to certain real property located the south side of Wolfe Neck Road approximately 613 feet east of Coastal Highway (911 Address: 35577 High Alpine Lane, Rehoboth Beach); said property being identified as Sussex County Tax Map Parcel Number 3-34-12.00-105.01-54949.

1. The Board was given copies of the Application, a portion of the tax map of the area, a survey dated March 16, 2015, an email from the Camelot Meadows Community Manager, correspondence supporting the Application, a portion of a drawing of the community, and an aerial photograph of the area.
2. The Board found that the Office of Planning & Zoning received eleven (11) letters of support to the Application and no correspondence in opposition to the Application.
3. The Board found that Sybil Luden was sworn in to testify about the Application. Ms. Luden submitted pictures to the Board to review.
4. The Board found that Ms. Luden testified that the Property is in a manufactured home community.
5. The Board found that Ms. Luden testified that the principal structure and addition comply with the setback requirements but do not meet the separation distance requirements.
6. The Board found that Ms. Luden testified that the neighboring units create a unique situation since those units limit what she can do with her property.
7. The Board found that Ms. Luden testified that the proposed screen porch measures 12 feet by 21 feet and encroaches 2.1 feet into the separation requirement.
8. The Board found that Ms. Luden testified that the porch cannot be built in strict conformity with the Sussex County Zoning Code.
9. The Board found that Ms. Luden testified that making the porch smaller would severely limit the utility of the screen porch and would not enable reasonable use of the Property because the porch would be too narrow.
10. The Board found that Ms. Luden testified that the park advised her that a 16 feet wide porch would be permitted on this lot but she felt that it was too wide.
11. The Board found that Ms. Luden testified that there are other similar porches in the neighborhood.

12. The Board found that Ms. Luden testified that the difficulty was not created by the Applicant and that the location of a structure on an adjacent property has created the difficulty.
13. The Board found that Ms. Luden testified that the screen porch does not alter the essential character of the neighborhood. There are similar structures throughout the park and many neighbors and a former property manager for the community support the Application.
14. The Board found that Ms. Luden testified that the variance is the minimum variance necessary to afford relief.
15. The Board found that Ms. Luden testified that the manufactured home was placed on the lot in March or April 2015 and the dwelling was on the Property when she purchased it.
16. The Board found that Ms. Luden testified that she purchased the unit and had the screen porch built to help with mosquito problems.
17. The Board found that Ms. Luden testified that her builder obtained the building permit for the porch and the porch passed all building code inspections but no Certificate of Compliance was issued.
18. The Board found that Ms. Luden testified that she was unaware of any issues until she was contacted by the Planning and Zoning Department.
19. The Board found that Ms. Luden testified that she relied on her builder to construct the porch in compliance with the Sussex County Zoning Code.
20. The Board found that Ms. Luden testified that the porch does not impair the uses of the neighboring and adjacent properties.
21. The Board found that Allison Luden was sworn in and testified in support of the Application and testified that she spoke with all the neighbors in reference to the Application and the neighbors have no objection to the Application.
22. The Board found that Allison Luden testified that the survey was very costly and that there is not a survey of the entire park.
23. The Board found that one (1) party appeared in support of the Application.
24. The Board found that no parties appeared in opposition to the Application.
25. The Board voted to leave the record open for the Applicant to provide a survey for the lot which shows the lot lines.
26. On September 12, 2016, the Board reviewed a revised survey of the Property submitted by the Applicant and discussed the case.
27. 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 as it is a small lot in a manufactured home community. The small size of the lot and the separation distance requirements have created an exceptional practical difficulty for the Applicant who seeks to retain a dwelling and porch 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 and sheds have been placed on other lots and the Applicant has no control over the placement of those structures.
 - b. Due to the uniqueness of the Property and the placement of the manufactured home and shed on neighboring lots, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The Applicant seeks to retain a reasonably sized dwelling and porch consistent with others in the neighborhood but is unable to do so without violating the separation distance requirements between mobile homes. The variances are thus necessary to enable reasonable use of the Property. The Board is

convinced that the shape and location of the structures are also reasonable (which is confirmed when reviewing the survey) and that the variance is necessary to enable the reasonable use of the Property.

- 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 porch on the Property. The Applicant also did not place the mobile home and shed on the adjacent lots 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 retain a reasonably sized dwelling and porch on the Property. The placement of those structures has limited the Applicant's building envelope. The Board also notes that the Applicant relied on her contractor to place the porch on the Property in compliance with the Sussex County Zoning Code.
- d. 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. The Board is convinced that the dwelling and porch will not have a negative impact on the neighborhood. No evidence was presented which would indicate that the variances would somehow alter the essential character of the neighborhood or be detrimental to the public welfare. Rather, neighbors appeared to overwhelmingly support the Application.
- e. The variances sought are the minimum variances necessary to afford relief and the variances requested represent the least modifications possible of the regulation at issue. The Applicant has demonstrated that the variances sought will allow the Applicant retain a reasonably sized dwelling and porch 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 November 9, 2016