

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: JOSEPH GENTILE, JR.

(Case No. 11791)

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 3.3 feet from the twenty (20) feet separation requirement between Lot 30 and Lot 32 in a mobile home park for a proposed deck and a variance of 6.8 feet from the twenty (20) feet separation requirement between Lot 28 and Lot 30 in a mobile home park for an existing manufactured home. This application pertains to certain real property located the west side of Coastal Highway on the north side of Patriots Way Lane in Sea Air Village (911 Address: 19944 Atlantic Avenue, Rehoboth Beach); said property being identified as Sussex County Tax Map Parcel Number 3-34-13.00-310.00-52940.

1. The Board was given copies of the Application, a portion of the tax map of the area, drawings, assessment records, an exterior improvement request, letters of support, an aerial photograph of the Property, and a survey dated March 16, 2016.
2. The Board found that the Office of Planning & Zoning received five (5) letters of support to the Application and no correspondence in opposition to the Application.
3. The Board finds that the Property is identified as Lot 30 on the survey attached to the Application. The Board previously granted variances in 2008 for the existing manufactured home. Those variances included a variance of 6.6 feet from the dwelling on Lot 30 and the dwelling on Lot 28 as shown on the survey and a variance from the dwelling and the sheds on Lot 30 and the shed and dwelling on Lot 29 to the rear of the Property. No new variances are needed from the separation distance requirements for Lot 30 and Lot 29 but the survey shows that the dwelling is actually 13.2 feet, rather than 13.4 feet, from the deck on Lot 28 so a variance of 6.8 feet is needed for that separation distance. A variance from the separation distance requirements between Lot 30 and Lot 32 are also needed for the proposed deck.
4. Salvatore Gatrone and Joseph Gentile, Jr., were sworn in to testify about the Application.
5. The Board found that Mr. Gatrone testified that the Property is unique because it is narrow and angled.
6. The Board found that Mr. Gatrone testified that the Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code.
7. The Board found that Mr. Gatrone testified that the proposed deck would be 8 feet wide and 28 inches above grade. The proposed deck will be used to access both doors on the existing unit.
8. The Board found that Mr. Gatrone testified that a deck which would comply with the Code would only be 5 feet wide and not very large.
9. The Board found that Mr. Gatrone testified that the neighbor on Lot 32 has trash cans and an air conditioning unit on the side closest to the Property.

10. The Board found that Mr. Gatrone testified that the variances will not alter the character of the neighborhood and that neighbors support the Application.
11. The Board found that Mr. Gatrone testified that most of the units in the park are less than 20 feet from each other and most of the other lots in the park have similar decks.
12. The Board found that Mr. Gatrone testified that the variances are the minimum variances to afford relief.
13. The Board found that Mr. Gentile testified that the proposed height of the deck was preferred to allow them to access the deck from the existing unit without having use steps at the doorways. The existing steps will be turned and used at each end of the proposed deck.
14. The Board found that no parties appeared in support of or in opposition to the Application.
15. 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 narrow and shaped at an angle. Variances were previously granted for the existing dwelling and the dwelling appears to be inches closer to the neighboring unit on Lot 28 than originally believed. Meanwhile, the unit on Lot 32 is located close to the property line and does not leave much room on Lot 30 for a reasonably sized deck to be constructed. The narrow shape of the lot has created an exceptional practical difficulty for the Applicant who seeks to retain an existing manufactured home and to place a deck 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 retain a reasonably sized manufactured dwelling and to construct a reasonably sized deck consistent with other decks 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 dwelling and deck are also reasonable (which is confirmed when reviewing the survey).
 - c. The exceptional practical difficulty was not created by the Applicant. A prior owner obtained a variance for the existing manufactured home but the home appears to have been placed inches closer to Lot 28 than allowed. This placement error was clearly not created by the Applicant. The Applicant also seeks permission to place a reasonably sized deck on the other side of the home but cannot do so due to the proximity of the deck to the unit on Lot 32. The Applicant did not place the mobile home on Lot 32 so close to the property line thereby restricting the building envelope on Lot 30. This building envelope is further limited due to the narrowness of Lot 30. 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 the manufactured home and to place a reasonably sized deck on the Property.

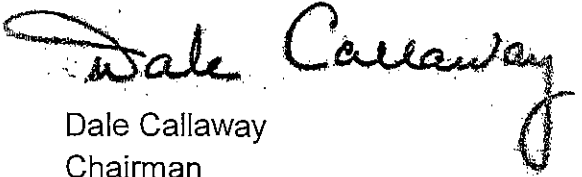
- d. The variances will not alter the essential character of the neighborhood nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare. The Board is convinced that the deck will not have a negative impact on the neighborhood. The unrebutted testimony confirms that there are other decks in the neighborhood and the proposed deck is consistent with those decks. Meanwhile, the home has been in its present location for several years yet no complaints were noted in the record about its location. Ultimately, 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, the Board received letters of support from neighbors.
- e. The variances sought are the minimum variances necessary to afford relief and the variances requested represent the least modifications possible of the regulations at issue. The Applicant has demonstrated that the variances sought will allow the Applicant retain a manufactured home and to construct a reasonably sized deck 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 August 16, 2016.