

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: STEPHEN C. CHANDLER & TRACI M. CHANDLER

(Case No. 11868)

A hearing was held after due notice on November 7, 2016. The Board members present were: Mr. Dale Callaway, Mr. John Mills, Mr. Jeff Hudson, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for variances from the side yard and rear yard setback requirements.

Findings of Fact

The Board found that the Applicants are seeking a variance fifteen (15) feet from the twenty (20) feet rear yard setback requirement and a variance of five (5) feet from the ten (10) feet side yard setback requirement on the northeast side for a proposed detached pole barn. This application pertains to certain real property located on the north side of Shady Lane approximately 0.21 miles east of Banks Road (911 Address: 24354 Shady Lane, Millsboro); said property being identified as Sussex County Tax Map Parcel Number 2-34-17.00-151.00.

1. The Board was given copies of the Application, a petition of support from neighbors, drawings and schematics of the proposed pole barn, a survey of the Property dated September 6, 2016, a portion of the tax map of the area, and an aerial photograph of the area.
2. The Board found that the Office of Planning & Zoning received the petition of support from neighbors and no correspondence in opposition to the Application.
3. The Board found that Stephen Chandler and Traci Chandler were sworn in to testify about the Application. The Applicants submitted pictures to the Board to review.
4. The Board found that Ms. Chandler testified that the Property is unique because it is narrow. The lot measures 75 feet by 170 feet.
5. The Board found that Ms. Chandler testified that, in order to comply with the Sussex County Zoning Code, the proposed pole barn would have to be located in the center of the Property. Placing the pole barn in the center of the yard, however, would not be in keeping with the character of the neighborhood.
6. The Board found that Ms. Chandler testified that the Applicants purchased the Property in August 2013 and did not create the size of the lot.
7. The Board found that Ms. Chandler testified that the septic system located on the left side and the middle of the Property.
8. The Board found that Ms. Chandler testified that the existing septic system also prevents the proposed pole barn from being built in compliance. If the pole barn was moved closer to the home, it would be on top of the drain field for the septic system.
9. The Board found that Ms. Chandler testified that neighbors have received similar variances for detached garages and pole barns. The proposed location of the pole barn is in keeping with the character of the neighborhood.
10. The Board found that Ms. Chandler testified that the variances are the minimum variances necessary to afford relief.
11. The Board found that Ms. Chandler testified that there is no current pole barn or garage on the Property.

12. The Board found that Ms. Chandler testified that the proposed pole barn will be used to store their pontoon boat and provide a workshop area for their woodworking hobby.
13. The Board found that Ms. Chandler testified that the proposed pole barn will measure 40 feet by 40 feet. The Applicants considered a smaller pole barn but the pontoon boat with trailer measures 35 feet deep and would not fit in a smaller pole barn.
14. The Board found that Ms. Chandler testified that there is an existing fence at the rear of their Property.
15. The Board found that Mr. Chandler testified that the shed has been moved elsewhere on the Property and the Applicants intend to remove the shed when the pole barn is constructed.
16. The Board found that one (1) party appeared in support of the Application.
17. The Board found that no parties appeared in opposition to the Application.
18. 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 narrow width and the location of the septic system. The septic system is located in the building envelope and greatly limits the available placement options for the pole barn. The Property is also narrow which further limits those placement options. The unique characteristics of this Property therefore limit the buildable area available to the Applicants and have created an exceptional practical difficulty for the Applicants who seek to build a pole barn on the lot.
 - b. Due to the uniqueness of the lot, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The Property has a narrow width and the buildable area thereof is limited due to its narrow width. The buildable area is further limited by the location of the septic system in the building envelope. The Applicants seek to build a pole barn that will fit their pontoon boat and trailer but are unable to do so without violating the Sussex County Zoning Code. The Board is convinced that the variances are necessary to enable the reasonable use of the Property as the variances will allow a pole barn large enough to accommodate the pontoon boat and trailer to be constructed on the Property. The Board is convinced that the shape and location of the pole barn are reasonable, which is confirmed when reviewing the survey provided by the Applicants.
 - c. The exceptional practical difficulty was not created by the Applicants. The Applicants did not create the unusual narrowness of the Property as the Property was created by a prior owner. The location of the septic system has also created an exceptional practical difficulty by rendering a portion of the building envelope unusable. The location of the septic system poses a particular problem because, if the Applicants were to move the pole barn closer to the dwelling (and out of the setback areas), the pole barn would be located on top of the septic system drain field. The Board is convinced that the exceptional practical difficulty was not created by the Applicants but was created the lot's unique characteristics.
 - 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 pole barn will have no effect on the character of the neighborhood. Pictures and drawings submitted by the Applicants demonstrate that the pole barn will be similar to other detached garages

and pole barns in the neighborhood. The location of the pole barn will also be in keeping with the character of the neighborhood and similar variances have also been granted nearby. A petition of support indicates that neighbors support the Application as well. Furthermore, 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.


- 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 Applicants have demonstrated that the variances sought will allow the Applicants to construct a pole barn large enough to accommodate their pontoon boat and trailer on the Property. The Board is convinced that the Applicants explored other options regarding the size and location of the pole barn in an attempt to minimize the variance needed.

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, and Mr. Brent Workman. No Board Members voted against the Motion to approve the variance application. Mr. Norman Rickard did not participate in the discussion or vote of this 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 January 10, 2017