

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: GARY LAWSON & KATHY LAWSON

(Case No. 11912)

A hearing was held after due notice on February 6, 2017. The Board members present were: Mr. John Mills, Mr. Jeff Hudson, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for variances from the separation requirement between units in a mobile home park.

Findings of Fact

The Board found that the Applicants are seeking a variance of 7.1 feet from the twenty (20) feet separation distance requirement for a proposed addition from a dwelling on an adjacent lot to the northwest, a variance of 11.0 feet from the twenty (20) feet separation distance requirement for a proposed addition from steps to a dwelling on an adjacent lot to the northwest, a variance of 3.6 feet from the twenty (20) feet separation distance requirement for an existing dwelling from a covered porch on an adjacent lot to the southeast, and a variance of 2.8 feet from the twenty (20) feet separation distance requirement for an existing dwelling from a dwelling on an adjacent lot to the north. This application pertains to certain real property located at 701 feet west of Skyview Street in Sea Air Village (911 Address: 20074 Delaware Avenue, Rehoboth Beach); said property being identified as Sussex County Tax Map Parcel Number 3-34-13.00-310.00-3414.

1. The Board was given copies of the Application, a portion of the tax map of the area, aerial photographs of the Property, an exterior improvement request dated December 8, 2016, minutes and findings of fact for Case No. 5885, and a survey dated December 20, 2016.
2. The Board found that the Office of Planning & Zoning received no correspondence in support of or in opposition to the Application.
3. The Board found that Gary Lawson and Kathy Lawson were sworn in to testify about the Application. Mr. and Mrs. Lawson submitted exhibits to the Board to review.
4. The Board found that Mr. Lawson testified that the steps from the neighbor's home on Lot 78 encroach onto the Property and the neighbor will be shortening the encroaching structure and turning it north so to remove the encroachment. The neighbor's steps will be placed at the property line.
5. The Board found that Mr. Lawson testified that an 11.0 feet variance will be required to meet the separation distance requirement for the proposed addition to the neighbor's side steps on Lot #78.
6. The Board found that Mr. Lawson testified that the steps on the east of the existing dwelling of the Applicant's lot will be removed. New steps will be added to the east of the home and turned to minimize the encroachment into the separation distance requirement area. A variance of 3.6 feet will still be required to meet the separation distance requirement with Lot #74 for the side steps.
7. The Board found that Mrs. Lawson testified that the Property is unique because the Property is narrow in size.
8. The Board found that Mrs. Lawson testified that numerous variances have been granted within the park to allow homeowners to improve their lots.
9. The Board found that Mrs. Lawson testified that, without the variances, the Applicants are unable to construct the proposed addition in order to comfortably accommodate their family.

10. The Board found that Mrs. Lawson testified that the existing home measures 14 feet by 72 feet.
11. The Board found that Mrs. Lawson testified that the separation distance requirement limits the size of the addition to 7 feet which is not large enough to meet their family's needs.
12. The Board found that Mrs. Lawson testified that the variances will not alter the essential character of the neighborhood.
13. The Board found that Mrs. Lawson testified that the variances requested are the minimum variances necessary to afford relief.
14. The Board found that Mrs. Lawson testified that the Applicants purchased the home in 2016 for a retirement home.
15. The Board found that Mr. Lawson testified that the home was on the lot when they purchased the Property.
16. The Board found that Mrs. Lawson testified that the Applicants have installed a new roof, improved the skylights, and installed a new HVAC system and electrical system.
17. The Board found that Mr. Lawson testified that significant improvements have been made to the home and the home will enhance the park.
18. The Board found that Mr. Lawson testified that the neighbors have no issues with the Application.
19. The Board found that Mr. Lawson testified that the proposed addition will be enclosed and will measure 12 feet by 20 feet. The prior deck measured 11 feet by 20 feet.
20. The Board found that Mr. Lawson testified that the prior deck was on the Property when they acquired the lot. The deck was in disrepair and an eyesore so the Applicants removed the deck.
21. The Board found that Mr. Lawson testified that the proposed addition will be in a similar location as the prior deck.
22. The Board found that Mr. Lawson testified that the neighboring homes and structures existed on the lots before the Applicants purchased the Property.
23. The Board found that Mr. Lawson testified that the exceptional practical difficulty has not been created by the Applicants.
24. The Board found that no parties appeared in support of or in opposition to the Application.
25. 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. The Property is only 39.69 feet wide in the rear and 41.03 feet wide in the front. The Property is also unique because it is located in a manufactured home park and is constrained by separation distance requirements which limit the placement of structures on the lot based upon the location of structures on neighboring properties. In this case, the dwelling to the northwest and the rear are both located close the property line. In fact, the steps to the dwelling on the lot to the northwest actually encroach onto the Property. The effect of the placement of these structures combined with the already narrow shape of the lot have led to an exceptionally small building envelope. These conditions have created an exceptional practical difficulty for the Applicants who seek to retain an existing manufactured home and to place a reasonably sized addition on the Property consistent with others in the neighborhood but cannot do so in compliance with the Sussex County Zoning Code. The situation is unique because neighboring homes have

been placed on other lots and the Applicants have no control over the placement of those homes and structures.

- b. Due to the uniqueness of the Property and the placement of the manufactured homes on neighboring lots, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The Applicants proposes to retain a reasonably sized manufactured dwelling and to construct a reasonably sized addition consistent with other additions in the neighborhood but are 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 addition are also reasonable (which is confirmed when reviewing the survey). Notably, the additions will be located in nearly the identical footprint as a previous deck on the Property.
- c. The exceptional practical difficulty was not created by the Applicants. The Applicants only recently acquired the Property and did not create the size of the lot or place the existing dwelling on the Property. Rather, a prior owner placed the dwelling and a deck on the Property. The proposed addition will be located on the same footprint as the deck; though the addition will be 20 square feet larger. The Applicants also did not place the structures on the neighboring properties so close to the property line thereby restricting the building envelope on the Property. This building envelope is further limited due to the narrowness the lot. The unique conditions of the Property and the development of adjacent lots have created an exceptional practical difficulty for the Applicants who seek to retain the manufactured home and to place a reasonably sized addition 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 addition will not have a negative impact on the neighborhood. The unrebutted testimony confirms that the addition will be an improvement to the home and will enhance the character of the neighborhood. Meanwhile, the home has been in its present location for several years yet no complaints were noted in the record about its location. Likewise, no complaints were noted about the deck which was in nearly the same location as the proposed addition. 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 documentation and testimony that the community supports 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 regulations at issue. The Applicants have demonstrated that the variances sought will allow the Applicants retain a manufactured home and to construct a reasonably sized addition 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. Jeff Hudson, Mr. John Mills, and Mr. Brent Workman. No Board Members voted against the Motion to approve the variance

application. Mr. Dale Callaway and Mr. Norman Rickard did not participate in the discussion or vote on 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 3/8/2017