

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: SHARON A. BRUNER

(Case No. 11951)

A hearing was held after due notice on April 17, 2017. 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.

Findings of Fact

The Board found that the Applicant is seeking a variance of 1.6 feet from the twenty (20) feet separation distance requirement for a proposed dwelling on Lot 14 from a deck on Lot 13. This application pertains to certain real property located on the north side of Lucky Lane, approximately 719 feet southeast of Indian Landing (911 Address: 26601 Lucky Lane, Millsboro) said property being identified as Sussex County Tax Map Parcel 2-34-25.00-31.00-19249.

1. The Board was given copies of the Application, a portion of the tax map of the area, aerial photographs of the Property, and a survey dated March 15, 2017.
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 Sharon Bruner was sworn in to testify about the Application.
4. The Board found that Ms. Bruner testified that the proposed manufactured home will be located in Massey's Landing.
5. The Board found that Ms. Bruner testified that her lot is square compared to other lots that are angled.
6. The Board found that Ms. Bruner testified that the Park is an older manufactured home park and the lots are narrow.
7. The Board found that Ms. Bruner testified that the proposed manufactured home is smaller than the older manufactured home being replaced.
8. The Board found that Ms. Bruner testified that the previous home had no insulation and was 30 years old. It was not feasible to live in the prior home in the winter.
9. The Board found that Ms. Bruner testified that the proposed manufactured home will be placed 23 feet from the neighboring unit but the neighbor's stairway encroaches into the separation distance requirement.
10. The Board found that Ms. Bruner testified that the proposed manufactured home will be an improvement to the neighborhood.
11. The Board found that Ms. Bruner testified that there have been no complaints from her neighbors.
12. The Board found that Ms. Bruner testified that the proposed location will be farther from the neighboring unit than the previous location.
13. The Board found that Ms. Bruner testified that home meets the flood requirements.
14. The Board found that Kathrine Contrulos was sworn in to testify in support of the Application.
15. The Board found that Ms. Contrulos testified that she resides with Ms. Bruner and a new home is needed.
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 finds 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.

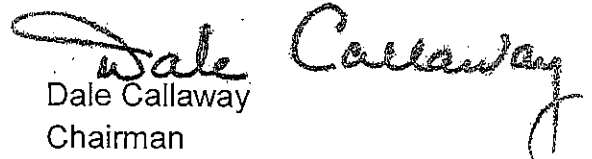
- a. The Property is unique as it is a small lot in a manufactured home community. The lot is also square whereas the neighboring lots are angled. The small size of the lot and the separation distance requirements have created an exceptional practical difficulty for the Applicant who seeks to retain a new dwelling 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 the deck on the neighboring home is too close to the Applicant's dwelling and the Applicant has no control over the placement of that deck.
- b. Due to the uniqueness of the Property and the placement of the deck the neighboring lot, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The Applicant seeks to retain a reasonably sized dwelling consistent with others in the neighborhood but is unable to do so without violating the separation distance requirements between mobile homes. The variance is thus necessary to enable reasonable use of the Property. The Board is convinced that the shape and location of the structure are also reasonable (which is confirmed when reviewing the survey) and that the variance is necessary to enable the reasonable use of the Property. The Board also notes that the home is smaller than the previous home on the lot.
- c. The exceptional practical difficulty was not created by the Applicant. The Applicant did not place the deck on the neighboring property. The Applicant also did not create the unique size and shape of the Property. 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 on the Property. The placement of those structures has limited the Applicant's building envelope.
- 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 dwelling will not have a negative impact on the neighborhood. 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. Rather, per the Applicant's testimony, neighbors appeared to support the Application. The Board also notes that the new home is smaller than the previous home.
- e. The variance sought are 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 retain a reasonably sized dwelling on the Property. The Board notes that the dwelling is smaller than the previous dwelling on the lot which had to be removed. The dwelling also would not need a variance if the deck on the neighbor's property was not so close to the Applicant's lot.

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 May 16, 2017